



ANTI-CORRUPTION POLICY IMPLEMENTATION

AN EXPERIENCE FROM THE REPUBLIC OF KOREA

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PART
1

Introduction

Under the 2021 Corruption Perception Index (CPI) released by Transparency International (TI), Malaysia was ranked 62nd among 180 countries, whereas the Republic of Korea (Korea) was ranked 32nd. The two countries were at similar ranks in 2016 when Malaysia ranked 55th and Korea ranked 52nd (Figure 1). In terms of scores, Korea's CPI score was 62 in 2021 (Figure 2) whilst Malaysia's scores peaked at 53 out of 100 in 2019 (Figure 3).

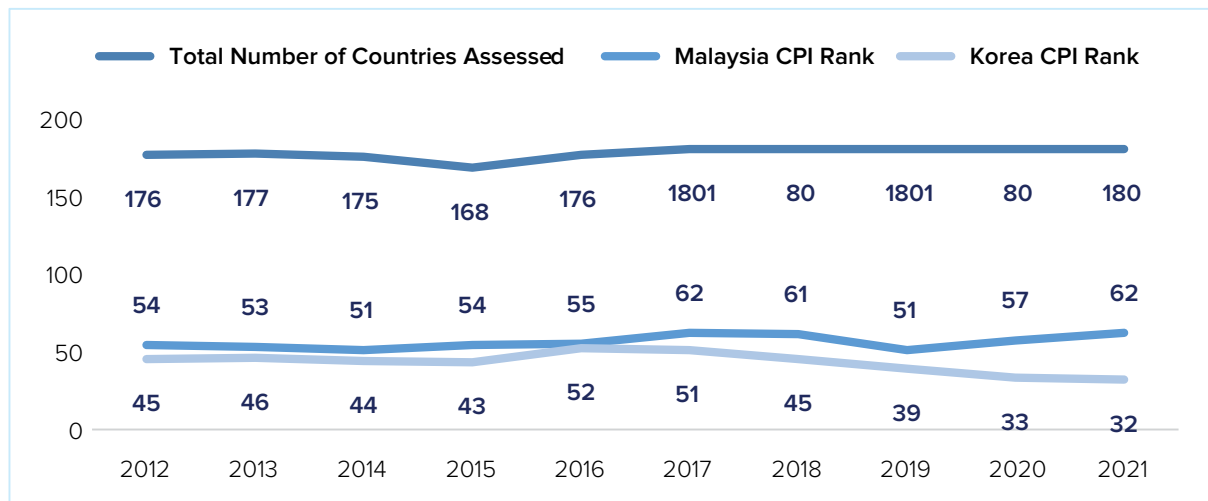


Figure 1: Korea and Malaysia CPI rank change in the last decade (Transparency International)

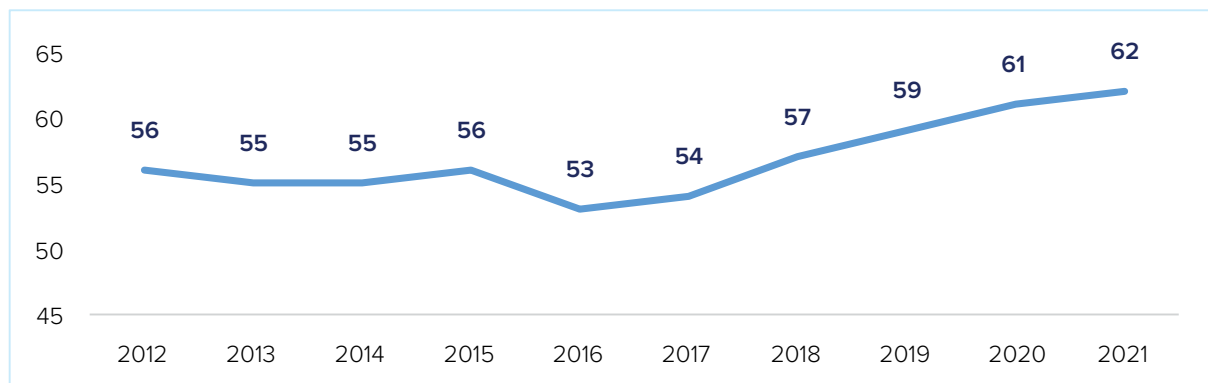


Figure 2: The Republic of Korea's CPI Scores in the last decade (Transparency International)

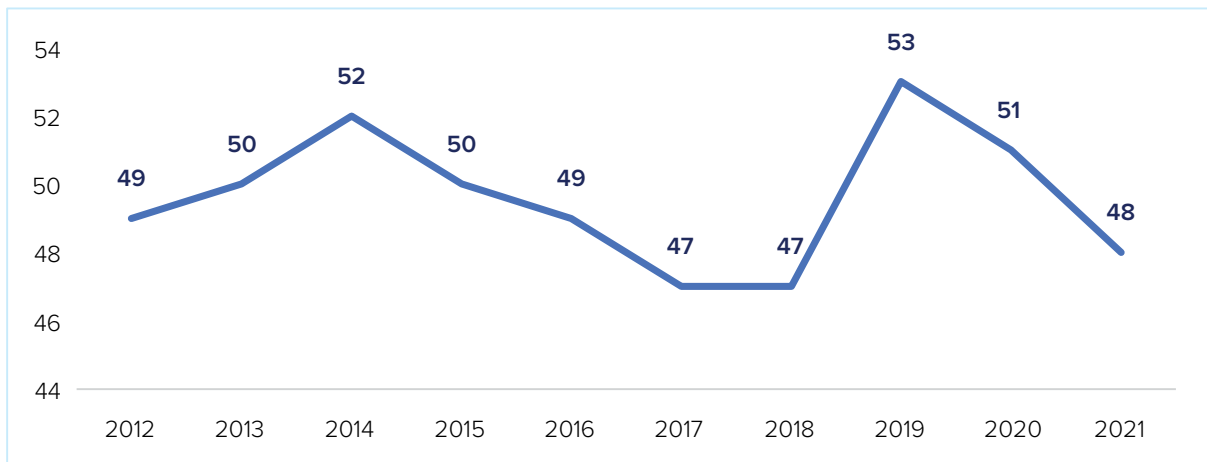


Figure 3: Malaysia CPI Scores (Transparency International)

On the 2021 CPI result for Korea, the country’s Anti-Corruption and Civil Rights Commission (ACRC) assessed that a positive impact was made with the efforts of the government and the people, to settle and spread anti-corruption and integrity culture based on transparency and openness.¹ In particular, the ACRC highlighted the government’s enactment of the Prevention of Conflict of Interest Related to Duties of Public Servants to swiftly strengthen the codes of conduct for public officials and also government-wide efforts to eradicate cheating and privileges in the overall society, such as the complete inspection of real estate owned by national assemblymen.²

¹ ACRC. (2021). Press Release on Korea ranks 32nd in the 2021 Corruption Perception Index (CPI) [Press Release]. ACRC website. Retrieved from <https://www.acrc.go.kr>

² Ibid



The result of the improved ranking also reflects a sustained effort since 2016—both by the Korean Government and the ACRC—to introduce a series of policies related to anti-corruption (Table 1).

 Year	 By the Korean Government	 By the ACRC
2016		<ul style="list-style-type: none"> • Enactment and Implementation of the Improper Solicitation and Graft Act • Implementation of ‘compulsory’ public official integrity training/education
2017	<ul style="list-style-type: none"> • Operation of Anti-Corruption Policy Consultative Council 	
2018		<ul style="list-style-type: none"> • Completion of planning Five Year Comprehensive Anti-Corruption Plan • Operation of Public-Private Council for Transparent Society
2020	<ul style="list-style-type: none"> • Establishment and Operation of the Corruption Investigation Office for High-Ranking Official 	<ul style="list-style-type: none"> • Implementation of the Act on Prohibition of False Claims for Public Funds and Recovery of Illicit Profits
2021		<ul style="list-style-type: none"> • Introduction and implementation of Comprehensive Integrity Assessment

Table 1: Korean Anti-Corruption Policies introduced since 2016

This report explores and shares lessons from Korea’s experience. The Korean experience focused on the prevention of corruption by ensuring the implementation of a national anti-corruption plan and introducing policy tools to respond to corruption by enhancing whistleblower protection. To learn from the Korean experience and facilitate potential policy adaptation to Malaysian contexts, this report explores both countries’ governance systems first to provide details of policies implemented by the ACRC, followed by recommendations on the policy lessons for the most relevant government institution of Malaysia to consider to devise their new policies and to improve pre-existing policies in the anti-corruption domain.

PART
2

Anti-Corruption Governance of Malaysia and the Republic of Korea

MALAYSIA ANTI-CORRUPTION INSTITUTIONAL ARRANGEMENT

Although several government agencies are working in the field of anti-corruption in Malaysia, there are mainly two government agencies focusing on prevention through policy development and monitoring – the National Centre for Governance, Integrity, and Anti-Corruption (GIACC) and the Malaysian Anti-Corruption Commission (MACC). Both agencies work on anti-corruption but with different scopes and functions within the policy framework, as outlined in the Prime Minister’s Directive No. 1 of 2018 – ‘The Enhancement of Governance, Integrity and Anti-corruption in the Management of the Malaysian Government Administration: National Mechanism for the Management of Governance, Integrity and Anti-corruption’. Under this Directive, two driving committees were formed, namely the Committee on Anti-Corruption (JAR)³ and the Special Cabinet Committee on Anti-Corruption (JKKMAR).⁴

The establishment of JKKMAR is to endorse policies, execute initiatives, as well as monitor and evaluate the performances of the initiatives by related ministries/agencies to ensure that the policies and initiatives on governance, integrity, and anti-corruption are being efficiently and systematically implemented. The Special Cabinet Committee for Anti-Corruption is chaired by the Prime Minister and the members include a few selected Ministers, the Chief Secretary to the Government, all Secretary Generals of ministries, the Auditor General, the Attorney General, and the Chief Commissioner of the Malaysian Anti-Corruption Commission (MACC). JKKMAR meetings are held every three months and issues related to governance, integrity, and anti-corruption will be presented to JKKMAR after being reviewed and agreed upon in the Pre-Council Meeting. Meanwhile, the JAR determines high-impact issues across agencies and recommends solutions and improvements to the JKKMAR (Figure 4). The JAR—which is chaired by the Chief Secretary to the Government with the members including, among others, all Secretary Generals of ministries and the State Secretaries—determines the high-impact issues across agencies and recommend solutions and improvement to the JKKMAR.

³ JAR is divided into two groups – one for ministries, departments, and federal agencies while another is for state governments. JAR consists of members such as the Director General of Public Service, the Secretary General of the Treasury, the Attorney General, the Auditor General, the Director General of GIACC, the Chief Commissioner of MACC, all Secretary Generals of Federal Ministries and all State Secretaries.

⁴ JKKMAR’s chair is the Prime Minister and the members are Federal Ministers, the Chief Secretary to the Government, the Secretary General of the Treasury, the Attorney General, the Auditor General, the Director General of GIACC, the Chief Commissioner of MACC, and all Secretary Generals of Federal Ministries.

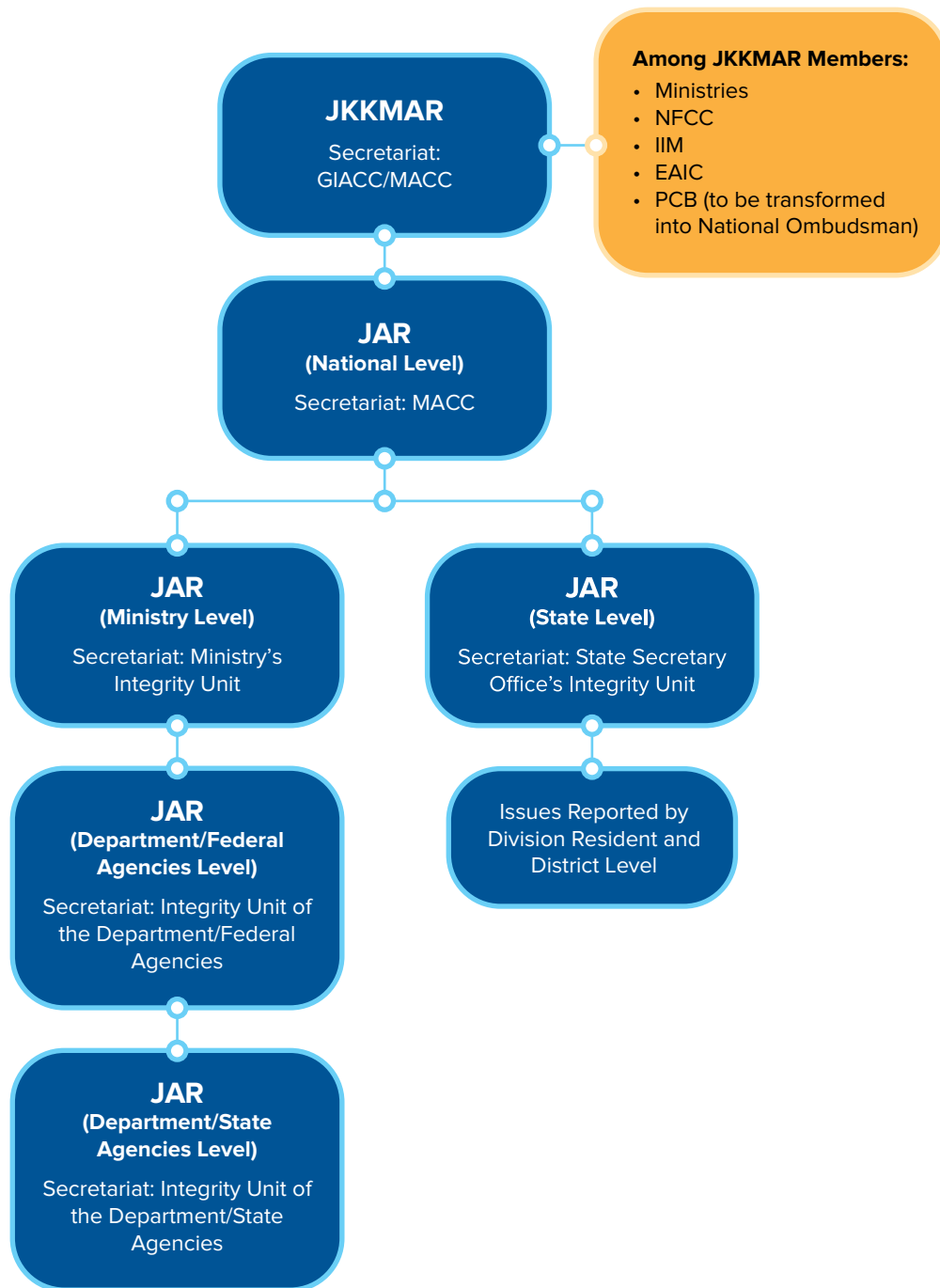


Figure 4: Malaysian Anti-Corruption Institutional Arrangement - the Structure of JKKMAR and JAR⁵

Note: The Malaysian Ombudsman will be an independent agency that will undertake its new function under a new law of the Malaysian Ombudsman Act and report to JKMAR through its Secretariat.

⁵ Prime Minister's Directive No. 1 of 2018 - The Enhancement of Governance, Integrity and Anti-corruption in the Management of the Malaysian Government Administration: National Mechanism for the Management of Governance, Integrity and Anti-corruption.

MALAYSIA ANTI-CORRUPTION POLICY DIRECTION

The establishment of a national-level anti-corruption plan—such as that of Malaysia’s National Anti-Corruption Plan (NACP)—is a form of commitment made by countries under Article 5 of the United Nations Convention Against Corruption (UNCAC)⁶. The implementation of the NACP is based on the Prime Minister’s Directive No. 1 Year 2018 – Series 2 No. 1 Year 2019 on ‘Strengthening Governance, Integrity and Anti-Corruption in the Government Administrative Management: Implementation of the National Anti-Corruption Plan (NACP)’.

The NACP has outlined six priority areas which were identified based on risk assessments conducted by various stakeholders and based on numerous data sources. The six priority areas are – i) Political Governance, ii) Public Sector Administration, iii) Public Procurement, iv) Legal and Judicial, v) Law Enforcement, and vi) Corporate Governance with a total of 115 initiatives. The implementation of all NACP initiatives by 27 Ministries, Government Departments, and Agencies as Reporting Agencies is monitored and evaluated by the GIACC as the Secretariat to JKKMAR, as well as NACP Performance Coordination which is chaired by the Chief Secretary to the Government. Through this meeting, issues and challenges faced by the lead agencies will be addressed by providing solutions to ensure the outlined NACP initiatives will be successfully carried out with the desired impact. The Mid-Term Review of the NACP 2019-2023 which was released on 19 May 2021 outlined 82 initiatives that emphasised the need for continuous improvement of governance to be made, with 29 initiatives successfully implemented up to the output stage in 2019.

ESTABLISHMENT OF THE GIACC

The GIACC was set up in May 2018 and since then, it has played a pivotal role in ensuring a holistic implementation of coordinated initiatives in the fight against corruption⁷. Its role has an emphasis on the monitoring and evaluation of anti-corruption policies and initiatives⁸ (GIACC’s mandates are shown in Table 2).



- 1. Advising the government on governance, integrity, and anti-corruption aspects by reaching out to various agencies in the government sector and the international level.**



- 2. Coordinating the implementation of the governance, integrity, and anti-corruption initiatives by the enforcement agencies.**



- 3. Observing the current performance of the enforcement agencies to ensure that the anticipated goals can be achieved.**



- 4. Planning appropriate strategies and action plans to be carried out at the national level, for instance, National Anti-Corruption Plan (NACP).**



- 5. Evaluating the level of effectiveness of the actions taken by the enforcement agencies on all the initiatives related to governance, integrity, and anti-corruption.**



- 6. Reporting the findings on actions related to governance, integrity, and anti-corruption aspects to be presented to the people through various mediums.**

Table 2: GIACC Mandate

⁶ Of which Malaysia has been a member of the Convention since 9 December 2003.

⁷ YBhg Tan Sri Abu Kassim Mohamed. (2019). Keynote Address by Director General, National Centre for Governance, Integrity & Anti-Corruption (GIACC), Prime Minister’s Department.

⁸ Ibid,

Significantly, the GIACC, in consultation with other agencies and departments, formulated and developed the NACP⁹ which was launched by the former Prime Minister on 29 January 2019.

Under the GIACC, there are four agencies – the Malaysian Institute of Integrity (IIM), the National Anti-Financial Crime Centre (NFCC), the Enforcement Agency Integrity Commission (EAIC), and the Public Complaints Bureau (PCB).

- **IIM** is responsible for providing consultation and training services through capacity building and integrity-based training programmes and tools such as Anti-Corruption Management System (ABMS) and Integrity Assessment Instrument (IAT).¹⁰
- The **NFCC** was established in 2020 with the passing of the NFCC Act 2019. Its functions are to coordinate and collaborate in integrated operation with the enforcement agencies on financial crime matters, to advise enforcement agencies in related matters, to establish, administer and maintain a centralised financial crime data system, to transmit information in the centralised data system, and to carry out financial crime prevention activities.¹¹
- The **EAIC's** functions are to address complaints of misconduct against enforcement officers or enforcement agencies.¹²
- While the **PCB** handles the public's grievances against the administration and addresses them accordingly, a separate ombudsman is to be set up for the grievances to be handled independently. The Malaysian Ombudsman will emphasise enhancing transparency and integrity based on impartiality in carrying out its functions in preventing maladministration and promoting good governance in the public sector through a new law of the Malaysian Ombudsman Act in the future.

By contrast, the MACC's function is to receive and consider any report of the commission on corruption offences and investigate such reports. It has to detect and investigate corruption offences under the MACC Act; examine the practices, systems, and procedures of public bodies, to facilitate the discovery of corruption offences and to secure the revision of such practices, systems, or procedures; advise heads of public bodies of any changes in practices, systems or procedures, compatible with the effective discharge of the duties of the public bodies; to reduce the likelihood of the occurrence of corruption; to educate the public against corruption, and to enlist and foster public support against corruption.¹³

The MACC plays the role of addressing corruption once it occurs with its investigative authorities and functions, whereas the GIACC focuses more on the prevention of corruption with its policy planning as well as policy development, monitoring, and implementation. Additionally, Malaysia is creating an independent ombudsman to address public complaints independently from the executive branch; for example, it may be possible for the independent ombudsman to present issues to the Parliament rather than the Cabinet and to compel the relevant ministry or agency to publicise its misconduct.

⁹ Malaysia Prime Minister's Department. (2019). Malaysia's NACP 2019-2023 has six Priority Areas that are vulnerable to corruption. These six Priority Areas are Political Governance, Public Sector Administration, Public Procurement, Law Enforcement, Legal and Judicial, and Corporate Governance: Malaysia Prime Minister's Department, NACP 2019-2023 [PDF]. Retrieved from <https://www.pmo.gov.my>

¹⁰ Institute of Integrity Malaysia (IIM). (n.d.). Official website. Retrieved December 18, 2022, from <https://www.iim-integrity.org.my>

¹¹ National Anti-Financial Crime Centre Act 2019 [Act 822], Malaysia. Article 4.

¹² Enforcement Agency Integrity Commission Act 2009 [Act 700], Malaysia. Article 4.

¹³ Malaysian Anti-Corruption Commission Act 2009, Section 7 Functions of officers of the Commission.

ANTI-CORRUPTION GOVERNANCE IN KOREA

The ACRC is at the centre of Korea's anti-corruption governance, working on both preventing and addressing corruption. It has played a pivotal role in developing the Five Year Comprehensive Anti-Corruption Plan as a Council member. In addition to the Plan, the ACRC has several functions authorised by the Act on Anti-corruption and the Establishment and Management of the Anti-corruption & Civil Rights Commission (hereafter ACRC Act), integrating three functions of Korea Independent Commission Against Corruption, Administrative Appeals Commission, and Ombudsman of Korea.¹⁴

Since the ACRC Act was launched in 2008, the ACRC performed these main functions: addressing civil complaints, implementing/recommending policies to prevent and deter corruption in the public sector, and protecting people's rights from illegal and unfair administrative practices through the administrative appeals system. It has also implemented several new legislation and amendments covering anti-corruption issues such as the Public Service Ethics Act and the Improper Solicitation and Graft Act. ACRC has had distinctive roles both in the prevention of corruption and responding to the occurrence of individual corruption/public grievance cases.



¹⁴ ACRC. (2020). ACRC Taking a Big Stride Forward on Transparency & Civil Rights [Press Release]. Retrieved from <https://www.undp.org>

Under the President's leadership, authorities other than the ACRC have also played roles in anti-corruption areas (Figure 5). The representative authority is the National Election Commission which has the sole authority to regulate political donations under the Political Funds Act¹⁵. Prosecution services and police agencies have also played important roles in tackling corruption as in many other countries with its detection and prosecution authorities over practical and grand corruption cases. Those authorities have played their roles under the legal framework in which various laws are applied to prevent and respond to corruption in the public and private sectors.

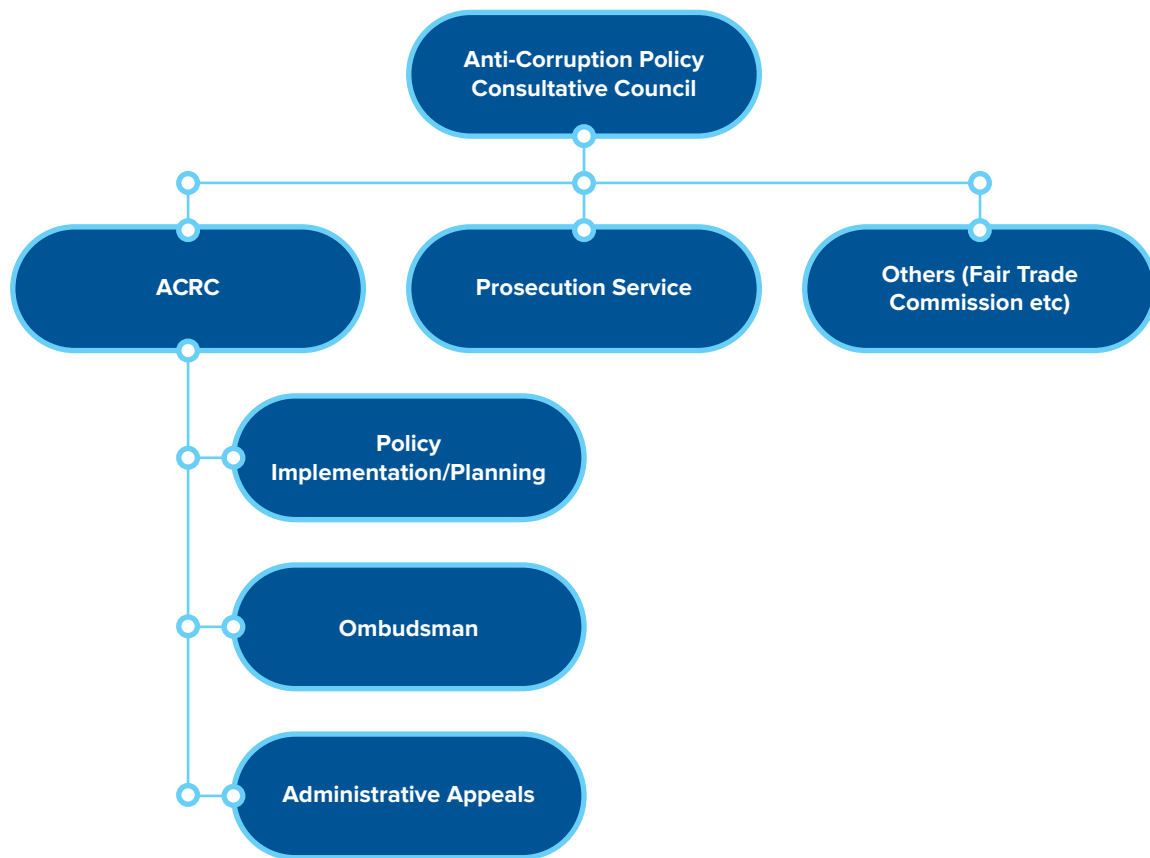


Figure 5: Korea Anti-Corruption Institutional Arrangement

¹⁵ For detailed regulations on political donations, see the overview of the Act at the National Election Commission website [Outline of Political Fund System | Political Funds | Political Parties & Funds | NATIONAL ELECTION COMMISSION accessed on 4 December 2022]; The Act has several regulatory requirements about political donations; yet, the core of the regulation is that there are maximum amounts of the political donation For transparent use of political funds, anyone who contributes more than KRW 1.2 million at a time or who spends more than KRW 500,000 at a time shall donate or spend in ways that verify his/her real name (such as by cheque, credit card, and account transfer). Meanwhile, if candidates and pre-candidates for public office spend political funds of more than KRW 200,000, spending methods shall be by using their real names such as by cheque, credit card, and account transfer. Furthermore, annual cash spending shall not exceed 20/100 of the annual total amount of spending (10/100 of the election spending limit, in case of election expenses).

PART
3

Korea's Anti-Corruption Policy through the ACRC

PREVENTING CORRUPTION

THE FIVE-YEAR COMPREHENSIVE ANTI-CORRUPTION PLAN

For effective prevention of corruption, the ACRC prioritises making a roadmap to provide an overall picture of corruption issues in different areas and types¹⁶. The roadmap comes with the Five-year Comprehensive Anti-Corruption Plan (hereafter Plan). The recent Plan was made in April 2018 with four strategic areas to prevent corruption as shown in Table 3. The ACRC developed four strategic areas with 13 major commitments through those communications and procedures, which were broken down into 50 targets in 2018.


 Strategic Areas	 Commitments
Collective anti-corruption efforts	<ul style="list-style-type: none"> • Establishment of anti-corruption governance based on public-private cooperation • Implementation of anti-corruption policies government-wide through the Anti-Corruption Policy Consultation Council, etc.
Clean public sector	<ul style="list-style-type: none"> • Improvement in the public finance system to prevent budgetary waste • Establishment of stricter behaviour standards including the Improper Solicitation and Graft Act • Establishment of a system preventing the conflict of private interest of public officials • Eradication of power abuse in the public sector • Enhancement of the effectiveness of property declaration of public officials
Transparent business environment	<ul style="list-style-type: none"> • Higher transparency in corporate accounting • Prevention of corrupt practices related to reconstruction and redevelopment: improvement of corruption control in health care
Putting integrity into action	<ul style="list-style-type: none"> • Facilitation of corruption and public interest whistleblowing, and reinforced protection for whistle-blowers • Prevention of corruption cases related to safety based on engagement and cooperation • Wider adoption of the Transparent Society Pact • Reinforced integrity education for public officials and future generations

Table 3: Four strategic areas in the 2018 Five-Year Comprehensive Anti-Corruption Plan

¹⁶ ACRC. (2020). Republic of Korea Anti-Corruption Report (p. 22).

ACRC uses two main ways to ensure effective planning and implementation of the Plan: people's participation and active communication with other public institutions. For example, to prepare the Plan, people's participatory policy tools are used to put grand corruption agendas into the Plan. One of the sensitive grand corruption issues such as the prohibition of privileges of former governmental/judicial posts came from the suggestion of the Private-Public Consultative Council¹⁷ for a Transparent Society that consists of leaders in each area, such as the media, and the economy. This Council is not only operated by the Prime Minister's directive to devise the roadmap of the Plan, but societal trust in guaranteeing freedom of speech ensures that members of the Council can discuss corruption issues freely and actively, during which various corruption causes arrive at the policy agenda table. At the implementation step, the ACRC utilises the People's Monitoring Group¹⁸ to monitor how the Plan is implemented at each government agency and to raise public awareness of the Plan.

Petty or administrative corruption has also been addressed through active communication among government ministries and agencies. The ACRC has had an annual meeting with staff responsible for audits at the public agencies and ministries and an additional meeting for local government agencies to inform them of anti-corruption policy issues for the year. According to the ACRC, for the successful implementation of the Plan, it is most important to create a communication manual between the ACRC and the staff responsible for audits at each agency. This may be more important than external support from a high place, such as the president or prime minister, as it has a critical functional role since through communication, the ACRC supports other ministries and shares information to implement the Plan.

Despite the active communication, the ACRC also gathers data on corruption through its policy tools, including ombudsman complaints, corruption complaints, and administrative trial cases. This ensures the accuracy of the data to identify genuine issues and combat corruption. The outcomes of national and local audits as well as media articles about certain topics are also considered.

The Plan may have not been able to resolve all the issues in the five years, as indicated by an academic evaluation of the policies¹⁹. But given that Korea's CPI ranking has improved since the Plan was put into place, it is possible to deduce that the Plan has contributed to Korea's anti-corruption success. By law, the ACRC has been mandated to formulate mid and long-term basic policies and an annual implementation plan to prevent corruption in public institutions²⁰. To achieve the 20th spot in the CPI rankings, the ACRC has announced that it will develop the second Plan at the end of 2021, following the first Plan (2018–2022)²¹. The ACRC has conducted research for the second Plan, gathered opinions from the public, ministries, and professionals, and held a symposium to develop anti-corruption policy agendas.

¹⁷ Meetings are to be held every two to three months, and the Council also plays a role in raising awareness and driving the implementation of the Plan; UNDP. (2022). ACRC Consultation Report.

¹⁸ This group consists of 50 people who are interested in corruption eradication and integrity and who have a great understanding of it, to receive feedback about the effectiveness of policy and thoughts about the direction and change in anti-corruption and integrity policies from ordinary people, the demander and beneficiary of those policies: ACRC, Promoting Public-Private Partnership available at [Promoting Public-Private Partnership | ACRC's Anti-Corruption Policies | Clean Portal: Clean Portal]

¹⁹ Chang, J. (2021). Evaluation of the Moon Jae-in Government's Anti-corruption Policies. KCSR, 26(3), 91-118.

²⁰ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission. Article 6.

²¹ The Republic of Korea Policy Briefing. (2021, December 29). Setting up of Five-Year Comprehensive Anti-Corruption Plan... Achieving Anti-Corruption and Fairness, 29 December 2021, the ACRC.

COMPREHENSIVE INTEGRITY ASSESSMENT

The tools to evaluate and assess the implementation of anti-corruption policies that reflect the Plan in each government ministry and agency are the ACRC’s most representative measure for preventing corruption. The Anti-corruption Initiative Assessment (hereinafter AIA) and the Integrity Assessment (hereafter IA) were both conducted by the ACRC. The AIA assesses whether an agency has worked to achieve the anti-corruption goals of the Plan, which are integrated into evaluation components of the AIA, as opposed to the IA, which measures public knowledge of corruption through surveys. When completing surveys for the IA, citizens, and public officials who have worked with a particular organisation are asked questions such as ‘Have you experienced corruption while working with a particular organisation?’ In contrast, the AIA assesses factors such as the proportion of public officials who have engaged in integrity education programmes, which may be one of the ways to conduct the Plan’s goals.

The two assessments have been integrated into the Comprehensive Integrity Assessment (hereafter CIA), which is a recently released policy tool of the ACRC. The integrated assessment has a maximum score of 100. Out of 100, the IA encompasses 60%, whereas the AIA encompasses 40% of the total score (Figure 6). The ACRC also devises the assessment tool with a deduction system to consider individual anti-corruption cases, by giving a deduction portion of a maximum of 10% plus a certain rate at their discretion. In 2022, the ACRC assessed 573 public institutions, including central government, local police agencies, local governments, local education offices, public institutions (such as state-owned enterprises), national universities, and national medical centres. The total number of institutions assessed in 2022 has increased by more than double compared to 2021, which was 273 institutions.²²

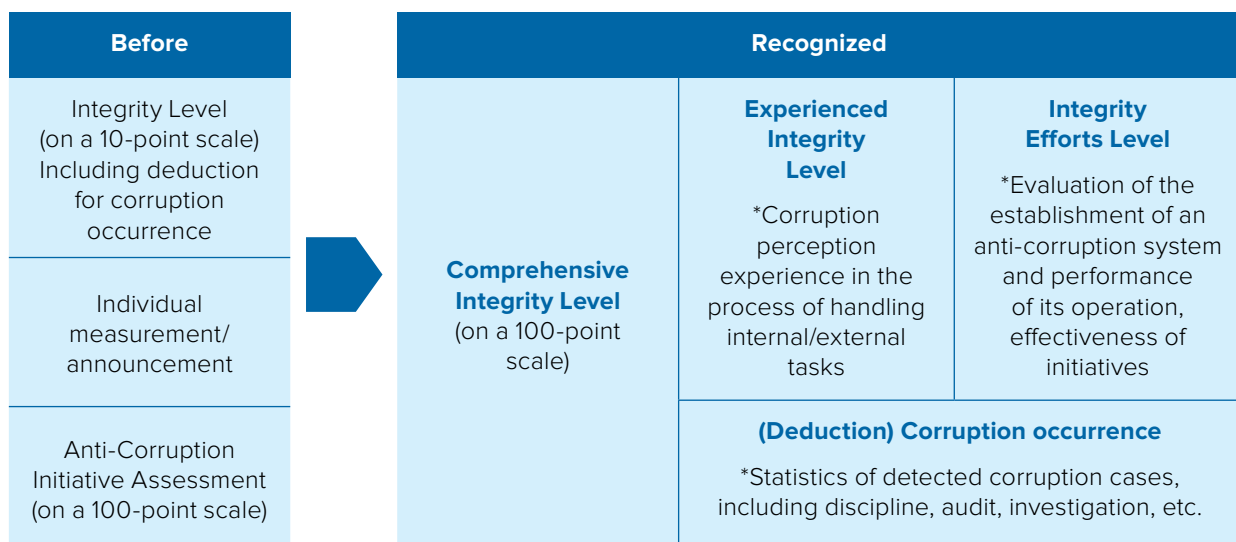


Figure 6: Reorganisations into the Comprehensive Integrity Assessment System

²² ACRC. (2022, March). Comprehensive Integrity Assessment Plan 2022 [Press Release].

The selected companies conduct the IA survey independently of the ACRC concerning how each sub-assessment of the CIA is implemented. Individual questionnaire answer sheets or information about interviewees are not made available to the ACRC to ensure the impartiality of surveys. Since 2021, the AIA components have been divided into two categories: the implementation of anti-corruption plans and the outcomes of the implementation. To ensure the efficiency of the policy tools, there is flexibility with sub-components under the two major categories that can be added or adjusted based on the current anti-corruption circumstances, professionals' advice, and ACRC divisions' opinions. For instance, the ACRC recently gave due consideration to enacted laws, which were on the Plan's agenda, and anti-corruption scandals that have been publicised by the media when revising the sub-components. With those components, relevant divisions of the ACRC evaluate each institution's efforts to develop its plans and put corruption policies into practice.

A special committee of professionals that conducts a qualitative examination of individual scandals and corruption cases oversees the deduction mechanism. The committee members are selected based on the professionals' availability from a pool of anti-corruption experts. The ACRC established the pool in the past to leverage its transient advisory services or to invite them to events such as seminars. The pool has been utilised to identify qualified experts for the qualitative assessment, and the list is periodically updated. The ACRC ensures that the relevant agencies can present factual disagreements and opinions regarding the scandals and cases to strengthen the objectivity and accuracy of the evaluation. The decision on the deduction rate is determined based on the seriousness and societal impact of the specific corruption scandals connected to each ministry and agency through the procedure and by the professionals. A deduction at a higher rate might be possible, for instance, if each case is specifically related to the Plan's objectives and has a large impact on society.

The distinctive element of the ACRC assessment policy tools is that the ACRC provides opportunities to explain to government agencies as one of the important procedural elements in conducting the assessment. This means the ACRC places its efforts on providing the agencies concerned with opportunities to be heard. Through this opportunity, the ACRC can assure that the organisation has not overlooked any of the efforts government agencies have made and the cases resulting in deductions. These ACRC efforts have been crucial in bridging the gap left by the ACRC's shortcomings: the ACRC is not a superior or supreme body over other government ministries and any procedural requests from the ACRC have no compulsory factors. The ACRC actively involved the assessment subjects by offering opportunities, and in doing so, it was possible to ensure their participation, awareness, and understanding of and acknowledgment of the assessments. To make the most of these opportunities, the ACRC formed the CIA.

One of the outcomes of leading institutions' voluntary cooperation is the approach in which the assessment results are made public. To strike a balance between the institutions' requests for confidentiality and information transparency, the ACRC deliberately only provided evaluation results with grades ranging from 1 to 5. The ACRC uses each institution's actual scores while maintaining the confidentiality of those results while providing consulting services to organisations that are prone to corruption. The ACRC has discovered that merely releasing grades is practical because of its experience. By disclosing the grades, the ACRC ensures that assessment target agencies make genuine efforts to improve the application of the anti-corruption policies rather than making extravagant efforts just to boost their public image or for show. The average score had slightly fluctuated until 2016 but rose for four consecutive years since then from 7.85 out of 10 to 8.27 out of 10 in 2021.²³

²³ ACRC. (2021). ACRC Annual Report 2021 (p. 49).

CORRUPTION PROOFING OF LEGISLATION

Another representative corruption prevention policy is corruption-proofing of legislation. Corruption-proofing of legislation is to examine various scenarios where the risk for corruption is deliberate by the person responsible for drafting the legislation, as well as cases where this risk is unintentional²⁴. It is targeted at regulatory corruption risks, which constitute existing or missing features in a law that can contribute to corruption²⁵.

The ACRC operates its corruption-proofing of legislation with its policy name called the Corruption Risk Assessment (hereafter CRA) under the ACRC Act. According to the Act, only government-proposed laws are to be assessed to determine whether there are corruption risks to uphold the separation of the three powers: legislative, executive, and judiciary. The ACRC evaluates every proposed law, ordinance, and decree before it is brought to the National Assembly.

The ACRC assesses potential corruption causes under the regimes implemented by the proposed enactments or amendments with the twelve components. The components have been devised based on the standards outlined in Article 30 of the Enforcement Decree of the ACRC Act. The Decree itself outlines three standards – the possibility of causing corruption (e.g., discretionary power), the ease of compliance with statutes (e.g., preferential treatment), and the transparency of administrative procedure, with the ACRC having the option of having additional standards considering any additional potential for corruption that the law may introduce. The standards outlined in the Decree are vague and inclusive, hence the ACRC has created detailed assessment components by reviewing the standards ad hoc and regularly. For the ad hoc review, current affairs and/or new government policy goals have led to the addition of new components. For example, a government policy goal of adapting to a rapidly changing administrative environment required adding components to remove potential passiveness in making administrative decisions from the legislation. Following this procedure, the ACRC now consists of twelve components under the four major categories: Compliance, Execution, Corruption Control and Administrative Procedure (Figure 7).

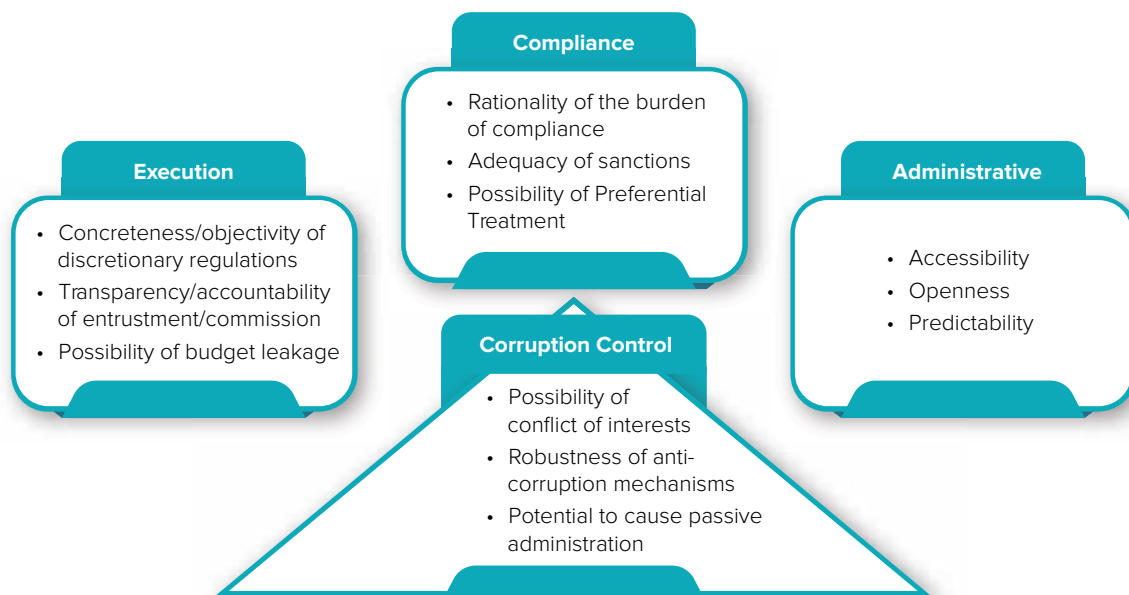


Figure 7: Corruption Proofing of Legislation Assessment Components

²⁴ Institute for Development Research and Alternatives (IDRA) of the Kingdom of the Netherlands. (2016). Methodology On Assessment of Corruption Proofing In Albania's Legislation.

²⁵ Regional Anti-Corruption Initiative, NTICORRP and UNDP, Anti-Corruption Assessment of Laws High Level and Expert Panel (Corruption Proofing of Legislation), Special Event to conference of the states parties to the united nations convention against corruption, 2015; RAI, RCC. (November 2014). Anti-Corruption Assessment of Laws.

In applying the components to each enactment or amendment, the ACRC uses several ways to resolve the issues of ambiguity of the components. The ambiguous meaning of each component has been informed and clarified by relevant ACRC rules regarding assessments. For example, the component 'passive administrative' is accompanied by guidelines provided by the Enforcement Decree of the Act, such as whether the law has more leniency for arbitrary interpretation of the law, which can make authorities take a passive stance in performing their duties as stipulated by the law²⁶. There are also other ways to overcome the ambiguity of components. To apply the inclusive components to potential situations, the CRA Division of ACRC conducts inquiries of the relevant ministries and/or public entities to identify potential issues.

The assessment procedure is conducted according to the Decree. The ACRC may develop guidelines or directives for the corruption-proofing of legislation to efficiently conduct the assessment and give notice to the heads of institutions²⁷. The ACRC may also request that the head of a public institution provide materials necessary for the assessment, and in such cases, the head of the public institution shall give his cooperation²⁸. When recommending the head of institutions to rectify any factor causing corruption in the legislation, the ACRC gives him/her written notice of the details and the deadline for measures²⁹. Although the recommendation the ACRC makes has no compulsory power, the head of institutions should provide the ACRC written notice of the grounds when they do not act on the ACRC recommendations by the deadline for measures³⁰.

According to the ACRC, there is a generally favourable attitude toward embracing the recommendations in government ministries and public institutions. The ACRC understands the rationale behind the widespread acceptance of unarguable and indisputable requirements to combat corruption. Although there is a challenge coming from the lack of compulsory power of the ACRC recommendations, the ACRC has policy tools to exert indirect pressure to accept the recommendations such as making acceptance of the corruption proofing of legislation recommendations as the component of the AIA of which grades are to be released to the public.

The ACRC has also established a documentation procedure that covers all communications with ministries and public institutions, including those regarding the grounds for rejecting recommendations. These documents can be utilised as an indirect means to lead them to apply the recommendations since the documents could be presented in the annual inspection of the National Assembly broadcasted at the nationwide level³¹.

²⁶ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 30.

²⁷ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 30 (2).

²⁸ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 30 (4),(6).

²⁹ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 30 (4).

³⁰ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 30 (5).

³¹ The National Assembly's annual inspection has also contributed to the acceptance of the recommendations. The National Assembly of Korea conducts annual inspections of all ministries and public institutions, where members of the National Assembly often make formal queries regarding the non-acceptance of the recommendations.

INSTITUTIONAL IMPROVEMENT

The ACRC Act authorises the ACRC to make recommendations on institutional improvement to prevent corruption and address grievances. The institutional improvement policy is committed to preventing the recurrence of similar cases by addressing the underlying factors that cause public inconvenience and systemic corruption³².

There are two categories of institutional improvement for this: corruption-related institutional improvement and grievance-related institutional improvement. The corruption-related institutional improvement is intended to prevent corruption by amending policies in advance to reduce the risks of corruption, whereas the grievance-related institutional improvement comes from the ombudsman functions in which the ACRC finds the ultimate causes of similar grievance cases. In 2022, the ACRC made nine corruption-related institutional improvement recommendations (Table 4) and fourteen grievance-related institutional improvement recommendations.



	 Corruption-related institutional improvement	 Grievance-related institutional improvement
Sub-categories	<ul style="list-style-type: none"> • Systematic Corruption • Unfairness and Favouritism/ Preferential Treatment 	<ul style="list-style-type: none"> • Inclusiveness and Social Safety • Youth grievance • Better quality of daily life
Example of recommendations	<ul style="list-style-type: none"> • Recommendation to increase the effectiveness of disciplinary actions against public institutions staff 	<ul style="list-style-type: none"> • Recommendations to reduce arrears of public charges • Recommendations to strengthen actions to respond to elder abuse effectively

Table 4: Institutional Improvement Recommendations

The corruption-related institutional improvement agendas are discovered in various ways, such as by monitoring the media, reviewing audit outcome reports, and conducting corruption-related complaint data analysis. The agendas are selected at the beginning of each year by prioritising them. Since relevant government ministries are responsible for discovering policy agendas to improve regulations, the ACRC prioritises agendas such as those i) de-prioritised by each ministry that is still in need of regulatory improvements for the public to reflect the goals of the Plan or ii) needing multiple ministries' intervention. For example, the ACRC prioritised an agenda to improve the system of one fund provided to farmers and fishermen/women by considering that one of the goals in the Plan is strengthening the management system of local benefits. By contrast, the grievance-related institutional improvement comes from the analysis of the ultimate causes of grievance complaints and inconveniences expressed by the public through channels for making complaints such as the ACRC's public grievance complaint online website and the '110 Government Call Center'.

³² ACRC, 2021 Annual Report, p.154.

The institutional improvement recommendations are made by the Anti-Corruption & Civil Rights Commission, which consists of 15 members, including the commissioner. This Commission is the supreme commission of the ACRC based on the principle of *en banc*.³³ The ACRC regularly monitors whether the recommendations have been accepted by each ministry responsible for the regulations concerned twice a year. Since these recommendations lack any sort of binding authority, the ACRC makes sure to discuss the agendas with the respective ministries before recommending anything to raise the likelihood that the advice would be accepted. In addition, the CIA supplements the non-compulsory power of the recommendations.

By having acceptance levels of the recommendations as a component of the assessment, the ACRC leads the ministries to follow recommendations. If the ministries do not follow the recommendations sufficiently or have difficulties in following the recommendations because of multiple policy agendas on their desks, the ACRC provides consulting services on the implementation of the recommendations through site visits³⁴. Before on-site visits, the ACRC requests the ministry to submit relevant documents for the ACRC to analyse the causes of non-acceptance of the recommendations. The relevant institutions could request reconsideration of the decision to the ACRC; in such cases, the ACRC needs to reconsider the recommendations³⁵. See Figure 8 for a workflow of the institutional improvement process.

 <p>1. Task selection and establishment of the implementation plan</p>	<ul style="list-style-type: none"> • Civil complaints filed through e-People; Consultation via the 110 Government Call Centre; Reports filed about corruption and/or public interest issues; Precedents of administrative appeal adjudication; Audit materials of the National Assembly and the Board of Audit and Inspection; Media monitoring, etc. • Drafting of the implementation plan for each task
 <p>2. Reality checks and feedback collection</p>	<ul style="list-style-type: none"> • Implementation of investigation on various written materials and reality check in the field • Collection of feedback from the public, stakeholders, experts and civic groups (Feedback collection via People's Idea Box, on-the-site meetings and public hearings)
 <p>3. Establishment of improvement measures and consultations with relevant agencies</p>	<ul style="list-style-type: none"> • Establishment of improvement measures for each task in respect of statutes, institutions, and policy programs • Consultation with agencies in charge regarding the acceptance of the improvement measure
 <p>4. Recommendations and publicity about institutional improvement</p>	<ul style="list-style-type: none"> • Recommendation of improvement measures after the approval of a resolution at the sub-commission/sub-committee/plenary committee • Distribution of press releases; Online/Offline publicity through postings on social media, etc.
 <p>5. Follow-up management of the progress in implementing recommendations</p>	<ul style="list-style-type: none"> • Inspection and evaluation of the progress in implementing recommendations • Encouragement to implement institutional measures through strategic meetings and/or consulting sessions, reporting at the cabinet and/or vice-ministerial meetings, legislative proposals, etc.

Figure 8: Workflow of Institutional Improvement

³³ *En banc* is the French expression for “on the bench”, which refers to the practice where all of the judges (commissioners in the ACRC context) of an appellate court (the Commission in the ACRC context) sit to hear an argument (a decision). *En banc* review is usually reserved for exceptionally important cases or to reconsider a decision made by a panel (or single judge) of the same court, Thomson Reuters Practical Law. (n.d.). *En Banc*. Retrieved December 7, 2022, from <https://uk.practicallaw.thomsonreuters.com/En-Banc>.

³⁴ Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 27 (2).

³⁵ Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 27 (3).



The ACRC publishes all recommendations for institutional improvement available on its website for the public to know the details of the recommendations. Through these releases, the media also covers the issues, which leads to raising public awareness. The ACRC may face a challenge when they identify institutional improvement agendas, but the improvement needs legislative actions from the National Assembly. Because of the separation of powers principle, the ACRC cannot request the National Assembly to act; yet following Article 77 of the ACRC Act, the ACRC has a cooperation channel with the National Assembly as they may submit opinions to the National Assembly by law. In this way, the ACRC may influence the changes to the regulatory issues that need actions from the National Assembly beyond the government's actions.

TRAINING AND EDUCATION

(i) Anti-Corruption Consulting Service

Beyond the operation of the policy tools, the ACRC trains public institutions to ensure genuine and effective implementation of the corruption policies in each institution. The ACRC has implemented its training policy not only for individuals such as public officials but has also provided the CIA-target institutions with consulting services. This consulting service is a fruit of the ACRC's attempt to find means to raise the capacity of the institutions and to draw continuous attention from the institutions in implementing corruption policies to reflect the Plan in each institution. The ACRC discovered that some government ministries and public institutions have consistently received low IA and AIA ratings ever since the AIA and the IA were first introduced. In response to the ministries' and institutions' complaints about the assessments' findings, the ACRC started providing consulting services in 2006. This would boost their cooperation and give them opportunities to improve.

At the beginning of 2017, the consulting service started its consulting. Thereafter, however, the ACRC changed the service to group consulting as consulting services started providing detailed suggestions to resolve challenges with limited human and financial resources. Accordingly, the ACRC started utilising external resources such as mentor agencies in relevant fields, in which they paired mentor-mentee agencies for the group consulting service. The mentor agencies are selected among the agencies that constantly had high grades to support the mentee agencies in need. The mentor agencies participate in making practical suggestions for improvement, whereas the ACRC focuses more on corruption theories. This has been useful since the mentor agencies are familiar with how the mentee agencies work and with problems that the ACRC frequently has trouble identifying. To encourage the mentor agencies to share their knowledge actively, the ACRC gives additional points to the CIA of the mentor agencies.

In contrast to the functions of the mentor agencies, the ACRC has been actively involved in the consulting service with both administrative functions and substantial analysis. To determine the reasons for the poor grades and develop initiatives to improve the mentee agencies' anti-corruption procedures for substantial analysis, the ACRC and the mentee agencies jointly evaluate the outcomes of the AIA and IA assessments in greater depth. The ACRC conducts anonymous surveys with the mentee agencies' staff to identify genuine problems. Despite being anonymous, the ACRC discovered that these surveys need to be improved in some areas to gather important data. This is since, although the ACRC, not the mentee agencies, administered the surveys, most of the mentee agencies informed their staff of the surveys through the mentee agencies' audit divisions, which led to reluctance on the part of the staff to participate in the survey or to provide truthful answers. The ACRC now plans to introduce focus groups to find out deep-rooted problems of the mentee institutions and solutions for fundamental improvements to resolve the challenges of the survey.

The ACRC performs administrative duties, including setting up meetings between mentor and mentee organisations and communicating with their leaders to make sure that they are aware of the issues and the need for improvement. In particular, the ACRC highlights the importance of communication with the heads of mentee institutions. This is because, through these communications, the ACRC identifies genuine problems and potential tailored solutions only for the agencies concerned. Communication also raises awareness of the heads, which is one of the most crucial success factors of the consulting service. From the ACRC experience, without the leaders' understanding of the necessity to improve their practice in the anti-corruption area, the consulting services yield no genuine effects on the problematic practices of the agencies.

The consulting services target all public institutions, including central administrative agencies, local governments, education offices of cities and provinces, and organisations related to public service. With its successful operation, the selection of mentee agencies becomes relatively competitive, with a rate of two out of five agencies selected as mentee agencies. The primary selection criterion is that agencies should have grades lower than four for at least two continuous years. Consulting services are provided from January to July of the year concerned. The consulting services are provided continually over the months, utilising a variety of methods, including active communication, on-site visits, and discussion by the aforementioned actors, each of whom has a specific function in the consulting service.

(ii) Anti-Corruption Training Institute (ACTI)

Integrity education is one of the ACRC's top priorities since it increases public officials' ethical awareness and strengthens their capacity for integrity, which is the most fundamental method of curbing corruption. In this regard, the ACRC established the Anti-Corruption Training Institute (ACTI) in October 2012 as a specialised educational institution dedicated to anti-corruption and integrity education. It is designated as an educational and training institution for public officials.³⁶ Although the centre focuses on mandatory education and training courses for public officials, education courses to raise the general public's awareness, particularly that of adolescents, is also one of the centre's important education targets. This is so that awareness can develop more readily at an early age.

The fact that anti-corruption education for government officials has been mandatory by law since 2016 is a distinctive feature of Korea's anti-corruption education centre and this has been a driving force behind the centre's successful operation. The anti-corruption education can be received through face-to-face education or online education via the Internet and website; but, in the case of new appointees, officials promoted, and others, integrity education must be completed face-to-face.³⁷ There are approximately two million education-targeted government officials for whom the centre operates a training course to educate anti-corruption trainers and develop training materials. Since it is a mandatory education programme by law, the main content of the education courses is related to relevant laws, such as the Improper Solicitation Act. In addition to the compulsory aspect, the training participation rate is a component of the AIA, through which the ACRC indirectly exerts pressure on agencies to increase mandatory education and training participation.

In 2021, the ACTI provided face-to-face education courses 246 times, producing 88,331 graduates of integrity education. This is achievable because of the hybrid operation of the face-to-face courses, which included several online training courses and the contracting out of some education courses. Contracting them out was to solve the issues rooted in limited human resources because the ACRC officials visited institutions and educated them directly before contracting out was adopted. 16 E-learning courses were provided to 296,979 people (Table 5).

³⁶ ACRC. (2020). Anti-Corruption Report (Report, p. 178).

³⁷ ACRC. (2020). Anti-Corruption Report (Report, p. 178).

Category	Course Name	Trainee	Number of Course Operations	Number of Trainees	Course Satisfaction Level
Mandatory face-to-face education	Course for improvement in integrity leadership	High Ranking public officials	24	1,290	93.2
	Course for improvement in integrity capability for newcomers	Newly employed public officials	7	467	91.1
	Course for Improvement in integrity capability for public officials promoted	Promoted public officials	7	564	92.2
Integrity courses	Course for improvement in corruption response capacity	Employees of public institutions in the corruption risk area	4	156	93.5
	Integrity expert course	Public officials in charge of audit and integrity at public institutions	7	1,270	94.3
	Millennial integrity leadership course	The millennial generation who was employed in the recent five years by public institutions	2	75	92.3
	Courses customized in each public institution area	The central government, local government, public education institutions and other public institutions	5	892	94.0
	Course to understand the Act on the prevention of conflict of interest	Public officials	7	1,792	93.0
	Courses to build integrity capacity	Public/Non-public officials	5	198	94.1
	Integrity Korea	Public officials	20	11,822	-
	Integrity course for officials on the ground	Firefighting officials and prison officers	2	148	-
	Capacity building of officials in charge of the civil affair	Officials receiving complaints from the public	4	272	-
Instruction training	Basic course	Public/non-public officials	4	220	95.8
	Professional course	Instructors completed the basic course	4	215	94.7
	Supplementary courses for professional introduction	Instructors completed the professional course	6	435	92.0
Total			108	19,816	93.6
Courses for specific institutions	Integrity Live (onsite education)	Officers of public bodies	60	61,194	90.5
	Local Council Integrity course	Members of the local council	38	2,146	-
	Integrity Class (onsite education)	Students (Elementary to High school)	40	5,175	88.5
	Total			246	88,331
E-Learning	Public officials e-learning platform (16 courses) and public bodies course (2 courses)		164	296,979	
Total			410	385,310	

Table 5: 2022 Training Courses

For the systematic and organised education operation, the centre makes annual plans for anti-corruption education for all government officials and the public, including adolescents. The centre conducts an annual survey on the demand for education and training to reflect these needs in the plans. The plans also consider significant contemporary issues like ESG (Environmental, Social, and Governance). The advent of the COVID-19 pandemic has affected the centre's programme operation as well. Education content and methods of training have been diverse, from live performances to online courses, particularly during the pandemic. In addition, E-platforms, such as YouTube, are actively used to increase accessibility for the public, particularly adolescents.

CODE OF CONDUCT

Under the United Nations Convention against Corruption (UNCAC) Article 8 Paragraph 2, state parties shall endeavour to apply codes of conduct for the correct, honourable, and proper performance of public functions. As one of the parties to the Convention, the ACRC has strengthened the standards of conduct under the Code of Conduct for Public Officials to root out inappropriate practices in the public sector and establish public service ethics that meet the expectations of the people³⁸ (Table 6).



Matters concerning the prohibition and limitation of any public official receiving entertainment, money, goods, etc. from any person related to his or her duties;



Matters concerning the prohibition and limitation of any public official intervening in personnel affairs, influence peddling, doing good offices, or soliciting another person for his or her good offices, taking advantage of his position;



Matters that public officials need to observe to create a sound climate of the civil service, such as fair personnel affairs;



Other matters that are necessary to prevent corruption and maintain the integrity and dignity of public officials when they perform their duties.

Table 6: Mandatory contents of codes of conduct for public officials

This increases public confidence and accountability in public administration, which is instrumental to the prevention of corruption.³⁹ Not only the government but also other constitutional institutions such as the National Assembly and Supreme Court operate codes of conduct; yet the ACRC of the central government is responsible for the three codes of conduct: codes of conduct for central and local administrative agencies and public service-related organisations. It is also the case that when the National Assembly, the Supreme Court, the Constitutional Court, the National Election Commission, or any organisation related to the public service enacts or amends the codes of conduct, the ACRC may request it to give notice to the ACRC⁴⁰.

³⁸ ACRC. (2020). Anti-Corruption Report (Report, p. 90)

³⁹ Conference of the States Parties to the United Nations Convention against Corruption, Open-ended Intergovernmental Working Group on the Prevention of Corruption. (2011, June 10). Good practices and initiatives in the prevention of corruption: The public sector and prevention of corruption; codes of conduct (article 8 of the Convention) and public reporting (article 10 of the Convention) [Background paper prepared by the Secretariat, CAC/COSP/WG.4/2011/3]. pp. 3-4.

⁴⁰ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 4.

The ACRC's role is to monitor the institutions' implementation of the codes of conduct quarterly or biannually. It is also feasible to conduct ad hoc monitoring inspections when necessary, such as after the adoption of new anti-corruption legislation. It is also possible that during a particular season such as traditional public holidays, the ACRC monitors the implementation focusing on the specialised themes to prevent custom-related corruption. Additionally, the ACRC encourages adherence to the codes of conduct by addressing concerns from agencies regarding their interpretation. The public and government officials can also use an e-Portal operated by the ACRC to make inquiries about interpretations of the codes of conduct in specific potential circumstances. The ACRC also releases relevant publications and conducts training/education programmes.

To monitor the institutions, the ACRC may formulate and implement guidelines for enforcing and operating the codes of conduct as well as conduct investigations and inspections of the institutions to determine the actual status of enforcing, operating, and implementing its codes of conduct.⁴¹ Biannually, the ACRC obtains data on the results of the implementation of codes of conduct, such as individual violation cases and statistics of the violation cases. The ACRC reviews the outcomes for statistical purposes rather than for substantial assessments of whether the actions taken in each violation case are appropriate to address the issues. Despite the lack of substantial analysis, the information received is only for statistical purposes. Together with other ACRC policy tools, such as through the components of the CIA, this could put pressure on the agencies to comply with the codes of conduct not only procedurally but also substantially.

The loophole of the ACRC mandate in monitoring the implementation of the codes of conduct can also be supplemented by other means. Anyone who observes a violation of the codes of conduct may report it to the ACRC or the relevant agency officials. The ACRC may, also upon receipt of a report on a violation of the codes of conduct, start to gather consensus. In such cases, if a public official is found to have violated the codes of conduct, the ACRC gives notice to the head of the agency in which the public official works or to the head of the supervisory body.⁴² If a public official who violated the codes of conduct is not subject to any of the statutes governing disciplinary action, the ACRC may also give notice of such fact to the person authorised to appoint and dismiss the public official or to the head of the supervisory body.⁴³ The head of the agency or the person authorised to appoint and dismiss the public official shall notify the ACRC of the measures taken.⁴⁴

The amendments to the codes of conduct were made through two different channels: firstly, requests from the public, which were gathered through the media and other channels, and secondly, the ACRC and other relevant government agencies, which believed that certain customs should now be viewed as immoral or illegal in light of other nations' policies and international standards. To ensure that some duties can be enforced by legislation beyond the level of codes of conduct, the ACRC submitted a government proposal on the Act on Prevention of Conflict of Interest of Public Officials. This is because it is necessary to establish an effective legal system to prevent public officials from involving their interests in performing public duties⁴⁵.

⁴¹ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 9.

⁴² Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 10(1).

⁴³ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 10(2).

⁴⁴ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 10(3).

⁴⁵ ACRC. (2021). Annual Report 2021 (p. 93).

The Act has been enforced since 19 May 2022, by specifying ten standards of behaviours to be complied with by public officials working for central and local governments as well as executives and employees at public service-related institutions while performing their duties (Table 7).

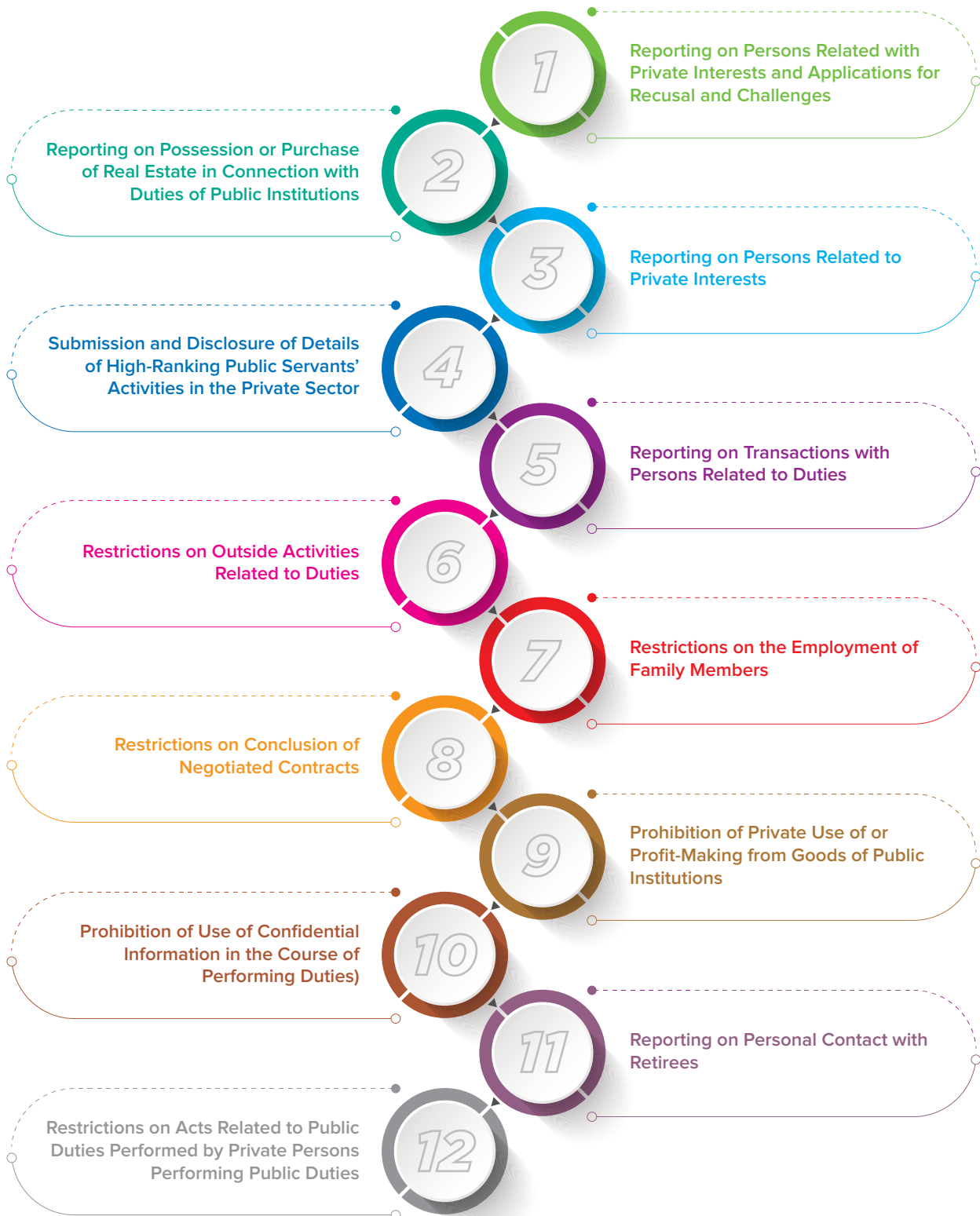


Table 7: Ten Conflict of Interest Standards

MONITORING AND DETECTING CORRUPTION CASES

COMPLAINT MECHANISM

Korea has solved a policy question of the anti-corruption area—whether/how the ‘policy’ body of anti-corruption engages in each corruption case—by authorising the ACRC to have certain mandates. The ACRC is mandated to receive complaints concerning corruption directly from the public and to monitor investigative/prosecution services addressing the corruption cases in addition to policy planning and implementation of prevention measures. Putting it another way, the ACRC, although it has no authority for a coercive investigation like the police and prosecution service, can be involved in individual corruption cases by conducting preliminary ‘factual’ findings while replying to voluntary submissions from persons related to each case. This is under Article 55 of the ACRC Act and the ACRC’s mandate to protect and reward reporting individuals, including whistleblowers⁴⁶.

According to Article 55 of the ACRC Act, any person who becomes aware of an act of corruption may report it to the ACRC. In the case of public officials, they have a legal obligation to report, once they learn of an act of corruption committed by another public official in performing his or her duties or is forced or proposed by another public official to commit an act of corruption, to any investigative agency, the Board of Audit and Inspection, or the ACRC⁴⁷ (Figure 9).

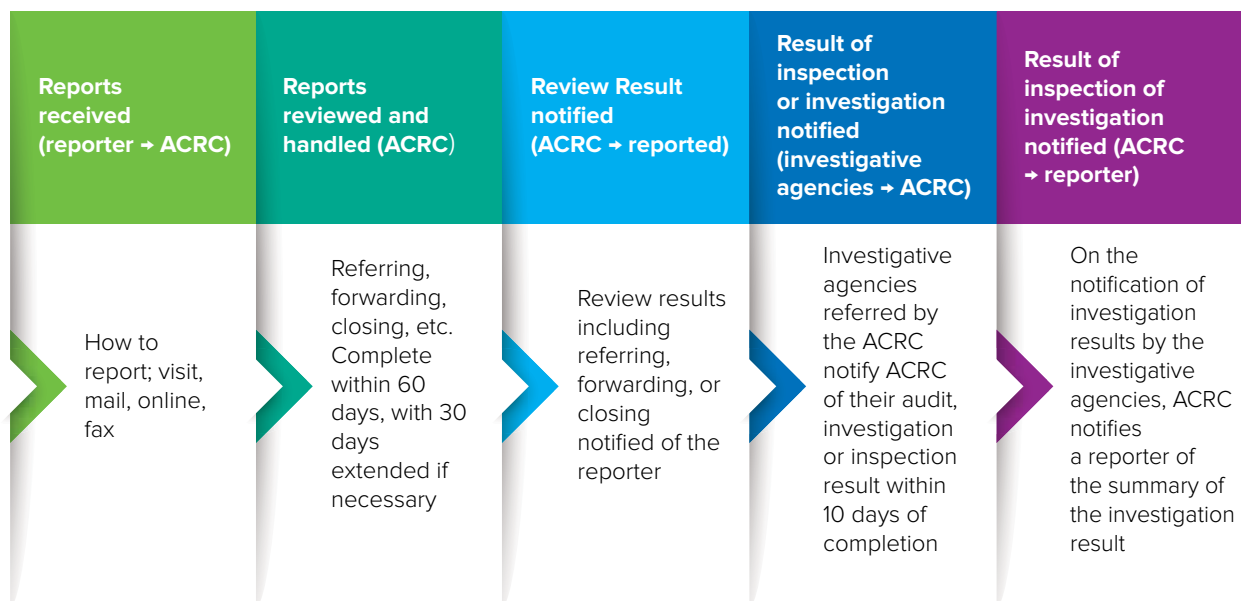


Figure 9: Process of Handling Corruption Violation Reports

⁴⁶ Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 55.

⁴⁷ Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 56.

The ACRC has also played an intermediate role in addressing grand/practical corruption cases between reporters and other authorised government bodies such as the police, prosecution service, or the Board of Audit. While the details of the mandates are stipulated in the Enforcement Decree of the ACRC Act Chapter IV, the ACRC's intermediate role is for preliminary 'factual' investigation for their end of referring the cases to the other authorised bodies that have compulsory investigation power and of observing/monitoring how the referred cases are addressed by the bodies. One of the most important meanings of the intermediate role is that the role is essential to protect reporters effectively. For example, the ACRC should not leak the names of reporters, if the reporters wanted it, to the concerned institutions during the factual investigation. With the intermediate role, the ACRC plays the role of de facto representative of the reporters during the preliminary investigation, resolving the power imbalance between the concerned institutes and the reporters.

To conduct the factual findings, the ACRC can ask ministries or public institutions concerned with corruption reports to submit documents or materials following Article 29 of the ACRC Act. Although this Article does not authorise the mandate particularly to conduct the factual investigation but to conduct all the mandates of the ACRC, the ACRC has requested and received materials from the concerned institutions based on the legal ground without difficulty in general. However, if the relevant agencies had more political de facto authority than the ACRC, it would have been difficult to gather the essential materials and data. In this case, the ACRC conducts preliminary factual findings based on statements and evidence collected by the reporters together with statements from interested persons. When the ACRC requests an interested person, expert witness, or related public official to appear and provide testimony during the factual investigation, the ACRC must notify that party in writing at least seven days before the date of appearance.⁴⁸ The statements from those persons are also voluntary not compulsory.⁴⁹

When the preliminary inquiry is complete, the ACRC decides whether to refer the cases. The Act and the Decree ensure the ACRC monitors how the referred cases have been addressed after referring them to the relevant bodies. An inspection agency shall complete its audit, investigation, or inspection of a case within 60 days from the date it is referred to a report. The period may, however, be extended if there is a justifiable reason, in which case the inspection agency must inform the ACRC of the extension's rationale and the new duration.⁵⁰ The investigative agency to which the report is referred shall finish an audit, investigation, or inspection, and notify the result to the ACRC within 10 days. In such cases, the ACRC provides a notice to the reporters of the gist of the findings of the investigation.⁵¹ In cases where the ACRC finds the investigation has not been sufficient, the ACRC may ask the prosecution or police agencies for a re-investigation with reasonable grounds, such as by submitting new evidence within 30 days from the date it is notified of the findings.⁵² An inspection agency that is requested to re-investigate shall notify the ACRC of the findings seven days from the date it completes the re-investigation.⁵³

⁴⁸ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 34 (1).

⁴⁹ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 34 (2).

⁵⁰ Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 60 (1).

⁵¹ Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 60 (2).

⁵² Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 60 (4).

⁵³ Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 60 (5).

In total, 77,139 cases were received from 2002 to 2021. Among those, 76,805 were addressed by the ACRC, out of which 57,999 were closed at the stage of ACRC's preliminary investigation. Out of 76,805, 3,407 cases were referred to investigative agencies, of which 2,292 cases were found ground for further procedure, whilst 874 cases were found acquitted.⁵⁴

CORRUPTION WHISTLEBLOWER PROTECTION

Due to the possibility of attack or retaliation on the part of those implicated in corruption, whistle-blower protection is essential for the success of anti-corruption detection and enforcement and should be a vital component of any system.⁵⁵ While there are two governing laws in protecting whistle-blowers in Korea, the ACRC Act only governs the protection of corruption case reporters.⁵⁶ According to Article 62 of the ACRC Act, no person shall take disadvantageous measures against corruption reporters because he or she files a report, states opinions related to the cases, or submits materials. It is also prohibited for any person to interfere with the filing of the corruption report or force the reporting person to withdraw the report.

Most protection measures are to be decided by the *en banc* ACRC Commission, except urgent personal safety actions that are to be taken and decided by the police.⁵⁷ If the ACRC confirms disadvantageous measures taken on a reporter because of reporting, it may request measures of reinstatement, payment of differentiated wages paid, wages in arrears, cancellation or prohibition of disadvantageous measures, or transfer or other necessary measures to the head of institutions or enterprises the reporter belongs to.⁵⁸ In addition, upon receipt of applications from the reporters, if the ACRC deems it necessary, it may request the chief of a police station in the jurisdiction to take personal protection measures for the reporter.⁵⁹ Lastly, no person shall inform, disclose, or report to others, personal information on reporters or any facts from which the identity of a reporting person can be inferred unless the reporting person consents.⁶⁰ Any person who violates the protection of personal information shall be punished by imprisonment with labour for not more than five years or by a fine not exceeding 50 million KRW (c. USD 38,000).⁶¹

⁵⁴ ACRC. (2021). Annual Report 2021 (pp. 68-69).

⁵⁵ UNODC and GRACE. (2022). Module 6 Detection and Investigating Corruption of Knowledge Tools for Academics and Professionals: Module Service on Anti-Corruption (p. 17). Retrieved from <https://www.unodc.org>.

⁵⁶ As a result of different laws that were enacted at various times, there are two acts governing whistleblower protection in Korea: the Public Interest Whistleblower Protection Act and the ACRC Act. Detailed protection measures, despite different governing laws, are nearly the same, although few differences remain. The ACRC and National Assembly identified these differences, and there are common understandings of the necessity to protect both types of whistleblowers in the same way.

⁵⁷ ACRC. (2021). Annual Report 2021 (p. 76)

⁵⁸ Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 62-3(1)

⁵⁹ Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 64-2

⁶⁰ Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 64

⁶¹ Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 88.

To be protected as a whistleblower, reporters should meet the legal conditions to be whistleblowers. This is the case when either a reporting person reports an act of corruption to a public institution to which the person reported belongs; a reporting person reports an act of corruption to a public institution that guides and supervises an institution, organisation, or enterprise to which the person reported belongs; a reporting person reports any act committed in violation of the code of conduct for public officials; or a reporting person gives testimony at the National Assembly or a court or files a criminal complaint or an accusation with an investigative agency against an act of corruption or a violation of the code of conduct for public officials.⁶²

For those elements of being whistleblowers, a causal relationship between employers' actions and whistleblowers' reports is the key requirement to condemn the actions taken by institutions that are disadvantageous to whistleblowers. The 'but for, likewise' test has been applied in making decisions on whether to apply the protective measures to the reporters – "but without whistleblowers' reports, would employers have taken the same actions?" Because of diverse factual factors, the causation requirement is often determined based on the precedent decisions of the ACRC and the court rather than having a firm internal standard to assess causation; yet the ACRC assesses more flexibly than the courts. When the causal relationship is not clear, the ACRC tends to admit the causal relationship to actively protect whistleblowers. The burden of proof is also on the institutions concerned so that whistleblowers can be protected to the maximum extent until the but-for requirement is not met by the evidence presented by the institutions.

Despite well-built policy practices in protecting corruption whistleblowers, the ACRC has faced a challenge. Unlike public-interest whistleblowers,⁶³ testifiers of corruption cases are not entitled to be protected with protective measures because of the absence of relevant provisions in the ACRC Act. Additionally, no psychological assistance is provided under the present protection measure categories; instead, a relief fund is set up to provide financial assistance for whistleblowers' emotional needs. The funds previously required applicants to submit evidential materials to prove that they were negatively financially affected by reporting. For this reason, the ACRC implemented a new policy—the urgent relief fund—for which applicants can have the funds first when there are necessities for the urgent provisions, and ACRC's commissions' assessment and decisions for the funds can be made later.

The ACRC also extended protective measures that can be taken by adding a new protection measure. Previously, the ACRC submitted opinions on the exemption of liabilities only to authorities of administrative measures and disciplinary actions. However, the ACRC is now able to provide courts with official opinions on the exemption of criminal charges against whistleblowers. In deciding on the newly introduced protection measures, the ACRC considers how whistleblowers contribute to resolving corruption cases. However, government agencies are not required to follow the ACRC's recommendations regarding the exemption of liabilities. To resolve the challenge in case the government agencies do not accept the recommendations, the ACRC may consider intervention during the CIA through a particular component related to whistleblower protection.

⁶² Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 67.

⁶³ Persons relevant to the public interest cases and could be requested to make statements, bear witness, or provide materials by the ACRC are under equivalent protection measures as the public interest whistleblowers.

WHISTLEBLOWER REWARD/AWARD

Providing whistleblowers with financial compensation encourages people's voluntary participation in corruption reporting⁶⁴ through which detection of corruption could be enhanced. The maximum amount of whistleblower reward is 3 billion KRW (c. USD2.3mn). The rewards are only to be provided when the public institutions concerned recover or increase their profits because of the whistleblowers' reports. The exact amount depends on the redemption of the amount resulting from the whistleblower reports.

The percentages applied in calculating the amount differ depending on the types of reporting—whether it is public interest reports or corruption reports.⁶⁵ However, the ACRC has been working on the amendment to the relevant laws to simplify the percentages to 30% of the redemption, regardless of the types of reporting and amount of redemption. From the ACRC's assessment, the whistleblower reward policy has had a positive impact on increasing the number of corruption and public interest reports. All reward decisions are made by the Reward Assessment Board first upon receipt of applications from whistleblowers. Then, the *en banc* commission makes final decisions.

In contrast to the whistleblower award, the award policy is intended to fill a regulatory loophole in the reward policy. In some cases, there were no financial benefits caused by reports, but the reports still contributed to the mitigation of corruption to a great extent. For example, systematic corruption could have been identified or major corruption perpetrators have been criminally charged. The maximum award for corruption reporting is currently 0.2 billion KRW (c. USD 156,000) however, an amendment to increase this to 0.5 billion KRW (c. USD 290,000) has been passed. Unlike rewards, selected reporters are awarded through recommendations submitted by relevant government agencies and ACRC-relevant divisions.

ADDRESSING PUBLIC GRIEVANCE AND OMBUDSMAN

OMBUDSMAN

The ACRC integrated three existing bodies and one of them was an ombudsman. ACRC, as the national ombudsman of Korea, receives grievance petitions. Any person, including foreigners residing in Korea, may file a civil petition for a grievance with the ACRC.⁶⁶ The grievance petition means a civil petition for the redress of a grievance on matters that infringe the rights of people or give any inconvenience or burden to people, due to unlawful, irrational, or passive disposition, including factual act and omission, of an administrative agency, or the irrational administrative system (including grievance petitions of active-duty soldiers and persons serving mandatory military service).⁶⁷ The ACRC operates an online site to address the petitions, called E-People (www.epeople.go.kr) along with the integrated government call centre (110). In principle, grievance complaints shall be managed by the inspection department of the agency relevant to certain complaints or by the supervisory agency of those, but the petitioners can also make the complaints to the ACRC. The ACRC is the last resort to address the petition.⁶⁸

⁶⁴ ACRC. (2021). ACRC Annual Report 2021 (p. 78).

⁶⁵ For example, for the public interest reports, 20% of the redemption is provided, if the whole amount of the redemption is less than 0.1 billion KRW (c. USD 76,500).

⁶⁶ The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 39 (1).

⁶⁷ The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 2, paragraph 5.

⁶⁸ ACRC. (2021). Annual Report 2021 (p. 94).

The procedure to address the petition is similar to those to address corruption complaints. Upon receipt of a grievance petition, the ACRC shall conduct necessary investigations into the details without delay.⁶⁹ The investigation can be carried out by requesting any relevant administrative agency to provide explanations, pertinent materials, and documents; requesting any employee of any relevant administrative agency, petitioner, interested party, or reference witness to appear before the ACRC and state his or her opinion; conducting an on-site investigation of the place, facilities that are deemed to be related to the investigation; or requesting appraisals.⁷⁰ Before making recommendations to the heads of the relevant administrative agencies, the ACRC shall provide an opportunity for the heads of the administrative agencies and the petitioner or interested parties to present their opinions in advance.⁷¹ The head of any relevant administrative agency is requested, by law, to faithfully comply with and cooperate with the requests or investigations of the ACRC.⁷²

The key characteristic of the ombudsman function at the ACRC is that it helps both to prevent and identify corruption. This is so that the public can file cases as civil complaints rather than formal complaints to the police or reports of corruption through the ACRC's inclusive complaint/petition reporting infrastructure, which includes a website and call centre. The ACRC has identified corruption through an initial review of the individual cases filed as civil complaints, since particularly corruption in the private sector, which could negatively affect the public interest, is often linked to corruption in the public sector.

What is different from the address of corruption complaints is that the ACRC may present measures necessary for fair resolution of a grievance petition on which an investigation is underway or has been completed, and recommend a settlement to the parties concerned.⁷³ In addition to this, the ACRC, if deemed necessary for prompt and fair resolution of a grievance petition which involves multiple persons or is deemed to have a significant impact on society, may mediate the petition on the request of the parties concerned or ex officio.⁷⁴ However, similar to the corruption complaint, the ACRC may transfer the grievance petitions to the relevant administrative agencies under certain requirements.⁷⁵

PUBLIC INTEREST WHISTLEBLOWER PROTECTION

The range of protected public interest whistleblowers is relatively broad thanks to the Public Interest Whistleblower Protection Act. The Act does not restrictively protect public interests such as public health, safety, environment, consumer rights, and fair competition but also protects other public interests that can be perceived as important as those five listed public interests. Examples of other public interests are those protected under labour and education laws. Anyone who reports cases relevant to a broad range of public interests can be protected.

Protective measures are similar to those for corruption whistleblowers despite differences in details.

⁶⁹ The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 39.

⁷⁰ The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 42 (1).

⁷¹ The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 48.

⁷² The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 42 (3).

⁷³ The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 44.

⁷⁴ The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 45.

⁷⁵ The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 43.



There is a duty to keep the personal information of the whistle-blower confidential;⁷⁶ the whistle-blower may request the ACRC to take necessary measures for his or her protection;⁷⁷ the whistle-blower may be entitled to have mitigation of culpability from criminal charges, disciplinary action, or administrative disposition;⁷⁸ it is prohibited to take disadvantageous measures against the whistle-blowers.⁷⁹ In addition to those protective measures, public interest whistleblowers can use the anonymous representative report system of the ACRC. The representative report system allows whistleblowers to remain anonymous even to the ACRC, and lawyers represent them during the ACRC's initial review process. This protection measure encourages people to file cases without fear and concern about the disclosure of personal identities.

Reward and award tools are devised under the Public Interest Whistleblower Protection Act as well in similar ways to those for corruption whistleblowers. The payment limit for monetary rewards is three billion KRW. Where monetary rewards computed due to an individual act detrimental to the public interest is not more than 200,000 KRW (c. USD 153), the amount shall not be paid.⁸⁰ To mitigate against a possible side effect of cases being filed due to monetary motivations, only a maximum of ten cases a year can be filed and there is a minimum amount required for the redemption available from reporting. The award payment limit is 200 million KRW (c. USD 153,000).⁸¹ When a relative or cohabitant of a whistle-blower suffers a loss or pays any of the following expenses due to a whistleblowing disclosure, he or she may apply the payment of relief funds as well.⁸²

⁷⁶ Public Interest Whistleblower Protection Act Article 12.

⁷⁷ Public Interest Whistleblower Protection Act Article 13.

⁷⁸ Public Interest Whistleblower Protection Act Article 14.

⁷⁹ Public Interest Whistleblower Protection Act Article 15.

⁸⁰ Public Interest Whistleblower Protection Act Article 21 to 25.

⁸¹ Public Interest Whistleblower Protection Act Article 25-2 and 2503.

⁸² Public Interest Whistleblower Protection Act Article 26.

PART
4**Key lessons learned from the
ACRC's implementation****ACTIVE COMMUNICATION WITH MONITORING TARGETS**

For the ACRC to ensure implementation of the Plan and the CIA follow-up, it actively communicates with other ministries and public institutions to fill the non-compulsory aspects of the Plan and the CIA. For example, as aforementioned, the ACRC has an annual meeting with staff responsible for audits at the agencies and ministries and an additional meeting with local government agencies to inform them of anti-corruption policy issues for a relevant year. The issues to be informed about include government goals in the anti-corruption areas, components of the CIA, and any other relevant issues. In the meetings, the ACRC not only speaks to the institutions but also listens to them to ensure mutual understanding among all public institutions. Another example is that whistleblower protection from the central government level to the local government level has been possible thanks to regular communication between the ACRC and local government. The Protection and Reward Policy Division of the ACRC hosts regular meetings with local government agencies twice a year, particularly to prevent the leakage of whistleblower identification information. This has been conducted considering that local government agencies have been delegated power to handle complaints.

In this way, the active communication with subjects to be monitored has increased understanding of the universal implementation of the Plan and awareness of the target institutions. Although the ACRC highlights that a satisfactory level of cooperation seems to stem partly from a common understanding of the necessity of preventing corruption and protecting public interests, this common understanding, at the same time, seems to have been enhanced through communications. By communicating actively, the ACRC has brought voluntary cooperation from the subjects to be monitored, for which the effectiveness of the implementation could have been increased. The communication has made it possible to find practical ways to implement anti-corruption policies since the ACRC cannot know all the details of each policy area governed by other ministries or public institutions. Through communications, the ACRC could provide a practical recommendation, which results in high acceptance levels of the recommendations.

Given that the GIACC of Malaysia has no compulsory power equal to the ACRC, systemised regular and active communication may strengthen voluntary cooperation and a mutual understanding of anti-corruption goals with other public institutions. However, given that there are already existing structures for monitoring the implementation of the NACP, the opportunities to communicate may be enhanced by law. For this, the ACRC Act and the Decree may have an eye-catching aspect since the Act and the Decree legalise the communication or requests for information as one of the procedures in carrying out the ACRC's tasks, for which the ACRC has had to communicate on one hand, and other public institutions have had to participate in the communication on the other hand.



THE COMPREHENSIVE INTEGRITY ASSESSMENT AS THE MASTER KEY

Another distinguishable aspect regarding how the ACRC has ensured the implementation of the Plan is that they have utilised the CIA as a primary tool. Although the ACRC has brought voluntary cooperation from other institutions, it has not always been successful in making all institutions follow their requests or recommendations. The ACRC fills the gap in their lack of compulsory power with the CIA by creating components of the CIA when they face challenges coming from public institutions that may not intend to cooperate. Together with its soft approach through active communication, the ACRC has enhanced the effectiveness of its policy tools by exerting pressure on their assessment or monitoring through the components.

For example, the ACRC needs corruption-related information in preparing the Plan; however, other ministries or public institutions can easily hesitate to share the information because of its sensitivity. To exert pressure on other ministries and public agencies to actively and transparently share information, the ACRC may utilise the CIA, by creating an assessment component on whether the agencies provided the information to give the institutions that shared information indirect advantages during the CIA. Acceptance of the corruption proofing of legislation recommendations, institutional improvement recommendations, and implementation of codes of conduct have also been indirectly forced with the components in the way. Even exempting liabilities of whistleblowers is also expected to have an indirect force on the CIA. This is because government agencies are not required to follow the ACRC's recommendations regarding the exemption of liabilities, yet the ACRC may consider intervention during the CIA through a particular component related to whistleblower protection.

Malaysia has also recognised the importance of the components and the use of monitoring and evaluation (hereafter M&E) for the implementation of the NACP strategies and initiatives. Current Malaysia M&E requires lead agencies to submit a quarterly report to the GIACC, and the programme's objectives have been translated into performance indicators and targets.⁸³ The current M&E mechanism may be strengthened with diversified indicators and components reflecting procedural requirements so that the situation at the institutions and substantial issues agreed upon among government agencies can be known. Outcomes of M&E would be officially released so that transparent information sharing with the public could be enhanced. Releasing the M&E reports to the public may also become one of the driving forces for public institutions to be active in implementing the strategies and initiatives.

OMBUDSMAN AS THE INFORMATION COLLECTOR

One of the factors crucial in devising effective anti-corruption policies is the collection of transparent and genuine information to form the base of the policies. The ACRC has been wiser to utilise its ombudsman function to collect information and analyse what happens on the ground. This is because the ACRC has information received from the public directly to reflect the reality on the ground in its policy agenda. The ombudsman communication channel has made it possible for the ACRC not to have to rely on information sharing from other government bodies. Since corruption-related information is sensitive, it is hard to expect fully transparent information sharing from public bodies; however, the ACRC has fared better with the ombudsman mandates. This indicates that it may be helpful for the anti-corruption policy body to have an ombudsman function at the same time to collect information themselves.

⁸³ Malaysia. (2019-2023). National Anti-Corruption Plan (NACP) (p. 60).

The ombudsman functions—with its services such as the government call centre and the complaints online platform—have also enhanced ACRC’s function of addressing anti-corruption complaints. As aforementioned, the civil petition for grievance includes a broad range of grievances; from matters such as infringing any right due to any ‘unlawful’ disposition or omission of administrative agencies.⁸⁴ Since the public does not strictly distinguish unlawful criminal/administrative corruption cases from simple administrative inconveniences, many complaints have been lodged with the ACRC. For this, the ACRC could have maximised its opportunities to detect not only public grievances but corruption cases as well. In other words, the ombudsman function of the ACRC increases opportunities to collect all kinds of information, through which they have enhanced their other roles. The ACRC has also operated the complaint big data analysis system to provide support to other institutions as well.⁸⁵

Given the lesson, there may need to be a central role played by an agency in Malaysia for the information analysis and data collection on governance, integrity, and anti-corruption through their sub-bodies such as the NFCC. Although the independent ombudsman is expected to be established by transforming the PCB for the impartial addressing of public grievances, a central agency is also required to play the role of information collection. The ACRC highlights how they have benefitted from the genuine information collected directly from the public themselves thanks to the ombudsman functions since it is hard for them to receive genuine and fully transparent information from other government bodies, even from the prosecution service because of the other bodies’ own confidentiality rules.

ANTI-CORRUPTION BEYOND CENTRAL GOVERNMENT AND PUBLIC SECTORS

Another significant aspect is that the ACRC has extended its policy tools to prevent and respond to corruption beyond the central government level. What is important to note is that the law and decrees have authorised the ACRC to have mandates beyond the central level. For example, in 2022, the ACRC largely extended its CIA assessment targets from 273 to 573 institutions by including local police agencies, local governments, local education offices, public institutions (such as state-owned enterprises), national universities, and national medical centres.⁸⁶ The consulting services target also includes all public institutions from central administrative agencies, and local governments, to education offices of cities and provinces to organisations related to public service.

Most of the policy tools the ACRC governs have been extended to local government such as corruption-proofing of legislation and monitoring codes of conduct including matters of local government. The local ombudsman is also under the guidance of the ACRC. The ACRC recommends that local governments and their affiliated agencies establish local grievance commissions (local ombudsman offices) equipped with expertise and independence so that they can address grievance complaints on their own promptly and fairly.⁸⁷ The assistance to the local ombudsman was also mandated by law and decree.

⁸⁴ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 2.

⁸⁵ ACRC. (2021). Annual Report 2021 (pp. 146-149).

⁸⁶ ACRC. (2022, March). Comprehensive Integrity Assessment Plan 2022 [Press Release].

⁸⁷ ACRC. (2021). ACRC Annual Report 2021 (p. 110).

In addition, the ACRC has also put efforts into anti-corruption in the private sector. The ACRC education courses have been prepared to raise the general public's awareness, particularly that of adolescents. This is because awareness can be built more easily at an early age. Since this year, education courses for undergraduates have been initiated. They assist in the private sector as well. By law and decree, the ACRC provide support, cooperation, etc. for the ethical management of enterprises to ensure that these values are effectively entrenched in their business ethics.⁸⁸ This has been possible because the law obligates an enterprise to establish a sound trade order as well as business ethics and take necessary measures to prevent any corruption.⁸⁹

What relevant agencies in Malaysia may need to look at is that the aforementioned has been possible because the ACRC has been legally mandated to monitor and implement the policies at the local level and local government or even the private business sectors' obligations to cooperate with the ACRC have been by the law. The legal obligation and mandate have also brought synergies between the ACRC and the local government/private sectors. The ACRC has enhanced cooperation with the local government to gather information from them and at the same time seek implementation of the Plan at the local level; at the same time, the ACRC has also had opportunities to engage with private sectors on anti-corruption issues in the private sectors. The legal mandates have boosted collaboration with the local government and private sectors, which enhances the effective implementation of the Plan and increases the integrity of the society.

⁸⁸ Enforcement Decree Of The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 3

⁸⁹ The Act On The Prevention Of Corruption And The Establishment And Management Of The Anti-corruption And Civil Rights Commission Article 5.



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