

CIABOC



Three years in Retrospect & The Way Forward (2017-2019)

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Commission to Investigate Allegations of Bribery or Corruption,
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BACKGROUND

Established in 1994, the **Commission to Investigate Allegations of Bribery or Corruption (CIABOC)** is an independent institution designed for the investigation and prosecution of offences relating to bribery and corruption. Yet here has been no reform or strengthening of the Commission until the year 2015. Archaic laws, scant human and material resources, financial dependency as well as public misconception of penal sanctions alone as a means of effective deterrence, has stood in the way of fighting bribery or corruption.

Nevertheless, CIABOC is now in a state of transition laying out foundational reforms and implementing new policies for the first time in the history under a visionary strategy with strong emphasis on the notion of ‘prevention’ as the most sustainable means to fight corruption. Hence, the Commission has taken upon itself a multitude of tasks in order to eradicate bribery and corruption including Prevention and Awareness Raising, Amendments to Laws and Formulating a National Action Plan, Compliance with International Obligations and strengthening collaborations.

It has made huge leaps within the recent past amidst several challenges, thus engaging in a strong fight against bribery and corruption. CIABOC is also brainstorming a number of major reforms to be materialized in the future with the collective effort of all stakeholders in the society. This Report succinctly looks at the past 3 years in retrospect and lays down the way forward for a better country and a society of integrity, free from bribery and corruption.

-CIABOC Team

1. ACHIEVEMENTS

1.1 Developing Anti-Corruption Policies and Strategies

<p>▪ National Action Plan</p>
<p>Formulation of a five-year National Action Plan for Combatting Bribery and Corruption in Sri Lanka (NAP) which integrates a multi-pronged strategy, premised on the four pillars of Prevention, Value Based Education, Institutional Strengthening, and Law and Policy reforms as the foundation of the country's anti-corruption plan over the next five-year period, i.e. from 2019 to 2023.</p>
<p>▪ Four Handbooks</p>
<p>Four Handbooks have been released alongside the National Action Plan in relation to decisive factors which would shape the course of combating bribery and corruption.</p> <p>The 04 Handbooks are as follows:</p> <ol style="list-style-type: none">i. Integrity Handbook: Outlines the role of integrity Officers appointed for each public institutionii. Handbook on Gift Rules: To regulate gifts to public officialsiii. Handbook on Conflict of Interest Rules: To strengthen the Prevention mechanism within public institutionsiv. Handbook containing proposed amendments to the law
<p>▪ Manuals and Guidelines</p>
<p>Issuing handbooks for the benefit of Investigators and prosecutors. Those are,</p> <ol style="list-style-type: none">i. Investigators Manualii. Prosecutors Guidelinesiii. Prosecutors Training Manual

1.2 Legislative Reforms

<p>▪ Drafting a Composite Act</p>
<p>The Bribery Act, Commission to Investigate Allegations of Bribery or Corruption Act, and the Declaration of Assets and Liabilities Law have not undergone significant amendments for over 25 years. Therefore, a Composite Act comprising the content of all three above laws has been drafted pursuant to a study of applicable international standards and it is now in the final stages of completion with the Legal Draftsman.</p>

▪ **Amendment of archaic laws**

The following legislation has already been amended:

- i. Amended the Bribery Act No. 11 of 1954 to allow proceedings relating to the offence of Corruption to be instituted in the High Court as well.
- ii. Amended the Commissions of Inquiry Act to enable CIABOC to initiate proceedings based on material received from a Commission of Inquiry without recording evidence afresh which has already been obtained by a Commission of Inquiry.

1.3 Effective Human Resources

▪ **Recruitment of Prevention Officers and Graduate Specialized Investigators**

The Commission has never had a formal prevention unit in its history. Further, it had not had cadre positions for graduate investigators with expertise and aptitude in investigating corruption complaints which contain complex financial evidence. Therefore, the Commission created the above cadre positions and recruited 50 prevention officers, 200 graduate specialized investigators pursuant to a comprehensive selection process. These appointments are expected to be made in the near future.

▪ **Recruitment of Legal Assistants**

17 legal assistants have already been selected through a competitive selection process and they are to be recruited in the near future.

▪ **Administrative Recruitments**

Officers were successfully recruited for the following administrative vacancies which existed for many years:

- i. Internal Auditor
- ii. Accountant
- iii. Director (Planning)
- iv. Information Technology and Communications Assistant
- v. Vocational Trainees

▪ **Capacity building training programmes**

Training was provided for Investigators, legal officers, and public officials with the support of the following agencies:

- i. In Bangkok and Colombo with the support of the United Nations Office on Drugs and Crimes (UNODC)
- ii. In Bhutan and Sri Lanka with the support of the Bhutan Anti-Corruption Commission
- iii. In Sri Lanka – Trainer’s Training Program for Public officers.

- iv. In Malaysia and Colombo with experts of the Malaysian Anti-Corruption Commission
- v. In Indonesia and Colombo with the support of the Indonesian Anti-Corruption Commission
- vi. Discussions with experts from the World Bank's Stolen Assets Recovery Initiative (StAR) and Slovenia on the developments in relation to the declaration of assets and liabilities
- vii. In Japan with the support of the Japan International Cooperation Agency (JICA)
- viii. In Korea with Korean officials.

1.4 Convictions and Raids

▪ Effective Prosecutions

The increase in the number of successful prosecutions leading to convictions is also an achievement that CIABOC is proud of.

The year 2018 witnessed the highest number of convictions secured by the CIABOC. Numbering at 64, these convictions were a record breaking achievement. 52 convictions were reported in 2017. The recorded number of convictions for 2019, as at 30.11.2019 is 42. Recently, CIABOC was able to secure a conviction and a sentence of 20 years' rigorous imprisonment against the Chief of Staff to the Former President marking the highest officer ever to be convicted since the enactment of the Bribery Act in 1954.

▪ Successful Raids

During the 3 years 2017, 2018 and 2019, CIABOC conducted 224 raids out of which 113 were successful.

1.5. Prevention/Integrity Strategy

▪ Civic Engagement-

CIABOC has conducted 192 Awareness-raising programmes:

- i. The officers of the Commission have been able to conduct programmes throughout the country on specific issues in relation to bribery and corruption and on improving prevention mechanisms and values. Accordingly, the following steps have been taken:
 - ii. Programmes for public officials and the public.
 - iii. Raising awareness amongst the public through newspaper advertisements, posters, and pamphlets.
 - iv. A major public awareness campaign targeting 300,000 commuters passing through the Fort Railway Stations and other stations around the island, was

conducted on 9th December 2019 to mark the International Anti-Corruption Day. A mobile campaign was also simultaneously held as four volunteer teams travelled to outstations such as Polgahawela, Beliaththa, Kurunegala, Chilaw whilst raising awareness among the public. An array of activities ranging from engaging with the public, distribution of leaflets and comic books, conducting raffle draws and competitions, branding train compartments, performance of street drama by popular artists were conducted to highlight the importance of building a society with integrity free from corruption.

▪ **Value Based Education**

With the objective of educating students, graduates and the younger generation and setting the basic foundation to incorporate the concepts of bribery, corruption and values into legal education CIABOC:

- i. Has conducted Programmes for school students and establishing integrity Clubs.
- ii. Is initiating the move to integrate anti-corruption studies into Higher Education Curricula in recognition of the role of the National and International Legal education in combating bribery and corruption.
- iii. Has prepared a series of seminars for the academic staff of all universities

▪ **Implementation of the National Action Plan**

The Secretary to the President has already issued relevant circulars warranting implementation of the NAP to the Secretaries to the Ministries and Chiefs of Institutions. Accordingly, every public institution has to appoint an integrity officer and a prevention committee in the near future. In addition, every public institution has to formulate an Institutional Action Plan in order to build a public service with integrity to combat bribery and corruption.

1.6 Cabinet Approvals

▪ **Approved Cabinet Papers**

The following cabinet papers were submitted and approval obtained from the cabinet of ministers in order to strengthen CIABOC:

Law and Infrastructure

- i. To amend the Bribery Act, Commission to Investigate Allegations of Bribery or Corruption Act, and the Declaration of Assets and Liabilities Law individually.
- ii. To draft a Composite Act including the content of all the above Acts.
- iii. To amend the Commissions of Inquiry Act (This Amendment has already been passed by Parliament and is currently law)

- iv. To amend Section 70 of the Bribery Act to allow proceedings relating to the offence of Corruption to be instituted in the High Court (This Amendment has already been passed by Parliament and is currently law)
- v. For the formulation of a national integrity framework in order to eradicate bribery and corruption from Sri Lanka under the five-year National Action Plan.
- vi. To accept the support of East West Management Institute, an international donor in order to strengthen certain activities of CIABOC
- vii. To temporarily hand over the former premises of the Registration of Person Department in Jawatte to CIABOC.

Budgetary Allocations

- i. Approval for the allocation of Rupees 200 Million for the training of officers of the Commission.
- ii. Approval for the allocation of a total of Rupees 600 Million for a three-year period at the rate of Rupees 200 Million per year for prevention and awareness raising across Sri Lanka.

▪ **Cabinet papers that await approval**

The following cabinet papers have already been submitted to the cabinet of ministers and await approval:

- i. The Cabinet paper requesting an attractive remuneration package for the recruitment of sought-after prosecutors which is a key factor in strengthening CIABOC.
- ii. The cabinet paper seeking approval for the construction of a new building with the objective of solving one of the main challenges faced by the Commission, i.e. limited space. This was delayed for nearly two years due to various obstructions posed by the Urban Development Authority.

1.7 Use of Technology

▪ **A centralized electronic asset declaration system**

The introduction of an electronic asset declaration system to replace the present manual declaration system will make it more convenient and less cumbersome for both the public officials who are required to file asset declarations and the investigators who conduct investigations into illicit enrichment of assets. A Central Authority will also be established under CIABOC for the collection and verification of asset declarations of public officials.

CIABOC has exchanged ideas with experts from the World Bank and States such as Slovakia and Indonesia to automate the current system and in collaboration with the ICTA has already developed the relevant online forms. This system will come into effect as soon as the relevant laws are passed.

▪ **An attractive website.**

Setting up an attractive and a comprehensive website for CIABOC. The website has also gained recognition as one of the five best websites in the public service in Sri Lanka. The website is also one of the convenient modes of complaint among the eight modes of complaints; walk in, write-in, hotline, mobile, SMS, Fax, Email.

1.8 Creative Inspiration

▪ **Use of Creative media**

Inspiring the public to instill the values of integrity and anti-corruption through the use of creative media:

- i. Creating an anti-corruption song which was the result of a collaboration between one of Sri Lanka's foremost lyricists, musicians, and singers.
- ii. Preparation of attractive TV and Radio Commercials showcasing the consequences of accepting bribes.
- iii. Conveying the anti-corruption message through drama, a version of art enjoyed by all.
- iv. Launching a very effective Anti-Corruption Awareness Campaign enlightening the general public of the importance of fighting against bribery and corruption and preparation of posters, paper advertisements and comic books as part of the program.

1.9 International Collaboration

▪ **Fostering International Cooperation and fulfilling international obligations**

- i. The Director General (DG) of CIABOC is the focal point for anti-corruption efforts under the United Nations Convention Against Corruption (UNCAC). Sri Lanka also completed the first and second review cycles of UNCAC implementation in 2016 and 2018 respectively. The DG regularly attends review meetings of the United Nations to actively contribute to discussions on issues pertaining to anti-corruption.
- ii. The Commission played a key role on the request of the Central Bank and the Ministry of Foreign Affairs, in securing the European Union GSP+ Trade Concession and extended monetary facility from the IMF as these organizations constantly consider the reformations achieved within the country as regards anti-corruption.

- iii. Actively contributes to the Open Government Partnership (OGP) operating under the Presidential Secretariat and has caused significant progress achieved to bin terms of the OGP indicators.
- iv. Successfully co-hosted the Global Expert Group Meeting (EGM) on the Jakarta Principles at the invitation of the UNODC with the attendance of present and former heads of anti-corruption agencies from over 30 countries, academics, practitioners, international anti-corruption experts, and civil society representatives.
- v. The Colombo Commentary on the Jakarta Statement on Principles for Anti-Corruption Agencies (COCO) was drafted at the EGM. The Jakarta Principles aim to strengthen the effectiveness and independence of anti-corruption authorities around the world as required by Articles 6 and 36 of UNCAC. The COCO was launched by the UNDOC at the Conference of State Parties to UNCAC held in Abu Dhabi in December 2019 to which a delegation from CIABOC participated.
- vi. The attendance of 52 diplomatic officials for the national launch of the NAP.
- vii. The members and other officers of CIABOC participated at workshops and knowledge exchange programmes in Bhutan, Indonesia, Hong Kong, Canada and Malaysia. CIABOC also hosted expert delegations from Bhutan, Indonesia, and Malaysia which provided invaluable knowledge and exposure to the participants.
- viii. CIABOC has exchanged ideas with experts from the World Bank and states such as Slovakia and Indonesia in order to review the law on asset declaration and to automate the existing Manual Asset Declaration System.
- ix. During the sidelines of the Conference of State Parties to UNCAC held in Abu Dhabi in December 2019, high ranking officials of anti-corruption agencies in countries such as Hong Kong, Singapore, Malaysia and Bhutan expressed their commitment to send highly skilled resource persons to Sri Lanka in order to train the prevention officers, investigation officers and legal assistants who are to be recruited soon, being pleased with Sri Lanka's performance in the anti-corruption drive.

▪ International Funding and Support

Technical Assistance was successfully solicited from the following agencies in order to further strengthen CIABOC:

- i. United States Agency for International Development (USAID) funded Strengthening Democratic Governance and Accountability Project (SDGAP)
- ii. East West Management Institute (EWMI)

1.10 Recognition and Awards

- **Gold Award**

In July 2019, CIABOC secured the Second Place and was awarded the Gold Award of excellence by the Committee for Public Accounts for its performance amongst all public sector institutions.

- **Merit Award for the CIABOC Website.**

CIABOC Website which was launched on 20th December 2017 was among the best 5 websites of public institutions and was awarded a Merit Award in the Bestweb.lk 2018 Government Category on 18th July 2018.

2. CHALLENGES

2.1 Lack of sense of ownership

▪ Lack of strong will on the part of relevant stakeholders

The lack of will on the part of relevant stakeholders has stood as a strong barrier resulting in CIABOC fighting against corruption single handedly. They seem to have divested themselves from the responsibility or rather take a sluggish approach towards any reformations. For an instance, the Secretary to the President has already directed all government institutions to appoint an integrity officer by way of a circular, however many public institutions have not yet implemented this circular so far. Thus, CIABOC is in need of a strong, cogent will that would back its reform process.

▪ Lack of collective effort on the part of the public

The misconception prevalent among the public is that bribery and corruption would see its end through law enforcement and that its solely the responsibility of the government. These attitudes pose a greater challenge in curbing corruption. Rather, the society has to embrace the idea that prevention is better than cure, displacing the belief that deterrence is the sole approach to curb bribery and corruption in Sri Lanka. Hence, prevention should be the norm and all stakeholders in the society must act in unison to instill values of integrity and to cut off the causes of bribery and corruption at its roots.

2.2 Lack of Facilities

▪ Poor Infrastructure

100 investigation officers of CIABOC has been moved to the old office of registration of persons at Kappetipola Road, Jawatte due to the dilapidated conditions of some of the buildings at the CIABOC. These officers are to be moved again to an alternative space. Thus, the CIABOC has had to find shelter for its officers rather than allowing them to engage in investigations. Having ascertained this problematic situation, a new building is to be constructed and UDA approval has been granted for the building plan almost after 2 years. The challenge before the CIABOC now is to carry out the necessary procurement of finance and construct the building.

2.3 Inadequacy of professionals

▪ Inadequate salaries and allowances of legal officers

It is imperative to recruit skilled, young legal officers for effective prosecution and to advise investigative officers during investigative stage. However, it has become a considerable challenge to attract such legal officers as the salary scale of CIABOC legal officers is very low. They are only paid 1/3rd of the remuneration that a legal officer at Attorney General's Department is privileged with. No steps have also been taken to change or improve this position. The Cabinet Paper that has been presented about 1 ½ years ago has also not been acted upon due to delays of several public institutions. Hence, there are only 28 legal officers as of present within the CIABOC and 19 more vacancies continue to remain, giving rise to a scarcity of expert legal officers in CIABOC.

▪ Paucity of Expert Investigators

As of present, investigations are carried out by police officers who are seconded from the Sri Lanka Police under the antiquated criteria laid down in 1994. There are no graduate accountants, auditors, engineers, bankers and IT officers among the investigators whereas other Asian countries with successful anti-corruption regimes such as Hong Kong, Malaysia, Singapore and Bhutan employ expert investigators who are not police officers.

In addition, currently, only 160 investigation officers are there to carry out investigations of nearly 3000 files even though the total population of the country is around 22 million. Thus an investigation unit comprising of 15-20 officers have to conduct around 500 investigations. On a comparative note, Hong Kong which has a population of about 06 million has around 1000 investigative officers in the Commission against Corruption. There is clearly a dearth of investigative officers that stand as a hurdle for expedient and effective investigations.

Hence, amidst several challenges, 200 vacancies have been created under the salary scale of MN 5 during the past 2 years. The new officers have been already selected after a competitive selection process but are still awaiting to be recruited due to the delay in clearance by the Ministry of Finance.

2.4 Absence of adequate evidence

▪ Lack of cogent evidence.

Corruption is a particularly difficult crime to investigate because of its hidden nature and the fact that there is rarely an individual victim that could come forward, claiming a loss or harm, and thereby trigger an investigation. Successful businessmen or investors seldom complain against high level officers accepting bribes or engaging in corruption.

In addition, most of the evidences in corruption cases are hearsay, which is inadmissible in court. Further it is quite difficult to find documentary evidence and many public institutions do not cooperate to provide such documentary evidence. Even if evidence is found, liability cannot often be squarely attached to a specific individual due to the gaps in the relevant circulars and regulations.

The successful prosecution is therefore strongly dependent on the receipt of verifiable information and the lack of it poses considerable to challenges to the CIABOC legal officers in court.

2.5 Lack of autonomy

▪ Lack of autonomy in relation to recruitment of staff.

The relevant criteria for recruiting investigation officers and legal officers to CIABOC is determined by Ministry of Public Administration and the Ministry of Finance where as Anti-Corruption Agencies in countries such as Hong Kong, Malaysia and Bhutan has in fact become independent so as to determine criteria to recruit officers by themselves.

▪ Financial dependency

Even though CIABOC is established as an independent Commission, it continues to struggle to acquire necessary resources. As a result of the inadequate budgetary allocations to the to CIABOC, numerous requests have to be made to the Ministry of Finance and to the Director General of the Department of Budget for allocating necessary budget to eradicate bribery and corruption which is not listed at all in their priority list.

Global surveys done by UN experts have suggested allocation of at least 0.1% of National Budget for combating bribery and corruption effectively. Countries such as Hong Kong has therefore allocated even 0.2% for its anti-corruption agency whereas in Sri Lanka, only 0.05% is allocated to CIABOC from the National Budget which is a trifling amount inadequate to efficiently and effectively curb corruption.

3. WAY FORWARD

The challenge before CIABOC now is to keep the momentum in the process of reformation it commenced within the past few year and to implement the National Action Plan which contains comprehensive measures, additional support, and impetus for the change of society to one of integrity, free from corruption. Nevertheless, it cannot be the sole duty of CIABOC but requires the collective effort of the public sector, private sector and the public alike. CIABOC can only act as the driver of collective action and with that in mind seeks to achieve the following in the near future:

- Enact the **Composite law** comprising of the Bribery Act, Asset Declaration Law and the CIABOC Act, of which the draft is in the final stages of completion with a view to introduce a comprehensive legislation to successfully combat bribery and corruption in Sri Lanka.
- Operationalize the **online Assets Declaration System** in the context a where e-governance is heavily encouraged.
- Recruit the **50 prevention officers, 17 legal assistants and the 200 expert investigators** in order to rectify the lack of professionals in CIABOC.
- Carry out **prevention strategies** and ensure **appointment of integrity officers** within every public institution.
- **Construct the approved building** which would serve as office space for CIABOC.
- Integrate **anti-corruption studies into higher education curricula** in recognition of the role of the National and International Legal education in combating bribery and corruption.
- **Raise the salaries of legal officers** of CIABOC to be on par with the Attorney General's Department.
- Empower CIABOC so as to enable it to **recruit necessary staff**.