

**ANTI-CORRUPTION AGENCY  
STRENGTHENING INITIATIVE  
ASSESSMENT OF THE COMMISSION  
TO INVESTIGATE ALLEGATIONS OF  
BRIBERY OR CORRUPTION,  
SRI LANKA, 2016.**

Transparency International Sri Lanka (TISL) is an independent, non-governmental, non-profit and non-partisan organization with a vision of Sri Lanka in which government, politics, business, civil society and the everyday lives of citizens are free from corruption. As the fully accredited national chapter in Sri Lanka of the Berlin-based Transparency International (TI), TISL partners and cooperates with TI and its chapters world-wide.

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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of December 2016. Nevertheless, TISL cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

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# ABBREVIATIONS

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ACA	Anti-Corruption Agency
AG	Attorney General
BASL	Bar Association of Sri Lanka
CC	Constitutional Council
CIABOC	Commission to Investigate Allegations of Bribery or Corruption
CPI	Corruption Perceptions Index
CSO	Civil Society Organization
DG	Director General
FCID	Financial Crimes Investigations Department
GCB	Global Corruption Barometer
GDP	Gross Domestic Product
JVP	Janatha Vimukthi Peramuna
MP	Member of Parliament
NGO	Non-Governmental Organization
PA	People's Alliance
PRECIFAC	Presidential Commission to Investigate & Inquire into Serious Acts Of Fraud, Corruption & Abuse of Power, State Resources & Privileges
SLFP	Sri Lanka Freedom Party
TISL	Transparency International Sri Lanka
TU	Trade Union
UNCAC	United Nation's Convention Against Corruption
UNODC	UN Office on Drugs and Crime
UNP	United National Party
UPFA	United People's Freedom Alliance

# PREFACE

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A key aspect of the mission of Transparency International Sri Lanka (TISL) is to catalyse an effective and sustained movement against corruption in Sri Lanka. As part of this, TISL has been conducting research and undertaking advocacy initiatives on select sectors and institutions with the objective of improving governance and anti-corruption capacity. The reestablishment of the Commission to Investigate Allegations of Bribery and Corruption (CIABOC) as an independent Commission, following the enactment of the 19th Amendment to the Constitution, has created an environment more conducive to CIABOC - Civil Society collaboration. It is in this environment that TISL has been able to conduct this unprecedented assessment of CIABOC.

Anti-Corruption Agencies (ACAs) such as CIABOC are specialized institutions within their respective national integrity systems, given their mandate to control and prevent corruption. It is imperative that ACAs operate independently, transparently, accessibly, accountably and effectively. In doing so they should enjoy public trust. They must have the legal mandate and institutional strength to operate with a reputation of efficiency, impartiality, objectivity and professionalism.

Transparency International undertook an initiative to engage with anti-corruption agencies in a process of conducting evidence-based research to examine their performance and identify challenges in selected jurisdictions. A robust assessment tool was developed over a period of two years in consultation with numerous experts and practitioners around the world. The tool took into consideration such dimensions of assessment as the legal independence of the ACA concerned, its financial and human resources, investigative capacity, prevention, education and outreach functions, cooperation with related organizations, its accountability and oversight functions and finally, the level of public trust it enjoys.

Using this tool, TISL carried out an assessment of CIABOC, through a process of engagement with all stakeholders concerned. This was a comprehensive study of its performance, using as many as 50 indicators with the above-mentioned dimensions. The assessment was aimed at providing an objective analysis of CIABOC's potential and performance as well as opportunities for improvement. Under each dimension, it also provides a set of recommendations consistent with the analysis.

We believe that the study will be helpful in strengthening CIABOC's effectiveness. We also trust the study will be useful for other stakeholders interested in understanding the strengths and weaknesses, as well as the challenges and opportunities faced by Sri Lanka's apex anti-corruption body.

In conclusion we would like to recognise the tireless efforts of independent researcher Dr. Jani de Silva in conducting the study. We would also like to express our gratitude for the technical assistance provided by TI's Asia Pacific Department and the invaluable peer review provided by TI-Bangladesh. Finally, we are grateful to those who held the office of Director General CIABOC during the assessment period and the staff of CIABOC, as well as a large number of key informants whose insights contributed substantially to the study.

S.C. Asoka Obeyesekere  
Executive Director  
Transparency International Sri Lanka

# EXECUTIVE SUMMARY

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The UN Convention Against Corruption (UNCAC) suggests that the best way for nations to combat corruption is by enacting legislation for the creation of an independent body dedicated to such a task. Such bodies could enforce and promote anti-corruption policies and principles. A well-functioning oversight mechanism with a focus on anti-corruption is seen as absolutely critical for good governance in any national context. In 2012, Anti-Corruption Agency (ACA) heads, practitioners and experts from around the world, came together in Jakarta to develop a persuasive set of rules and standards for ACAs. These subsequently became known as the Jakarta Principles.

Informed by these principles, Transparency International (TI) has developed an initiative which aimed at strengthening ACAs in the Asia Pacific region. The 'Anti-Corruption Strengthening Agency Initiative' combines biennial assessments of ACAs with sustained engagement, dialogue and advocacy, at both national and regional levels. Under this initiative, TI has developed a practical and comprehensive benchmarking tool aimed at highlighting the strengths and weaknesses of ACAs. The assessment tool was developed between 2013 and 2015 through a collaborative and comprehensive dialogue between TI, interested staff from ACAs in the Asia Pacific region and a group of experts convened by Transparency International.

Employing this tool, Transparency International Sri Lanka (TISL) implemented an assessment of Sri Lanka's Anti-Corruption Agency, the Commission to Investigate Allegations of Bribery or Corruption (CIABOC). The objectives of this assessment were:

1. To provide CIABOC with up-to-date information regarding its performance and opportunities for improvement; and
2. To provide all stakeholders committed to tackling corruption in the island with a better understanding of the enabling and disabling factors which affect the ACA's effectiveness.

## METHODOLOGY

During the period under review,<sup>1</sup> the membership of the Commission as well as the position of the Director-General underwent changes. In line with the 19th Amendment to the Constitution, a new Commission was appointed in October 2015. A new DG had already been appointed in February 2015. Upon her resignation, another DG was appointed in December 2016.

The methodology used in this assessment incorporated all these shifts and comprised of the following steps:

1. A literature survey—this involved a review of legislation, White Papers, studies on relevant issues, journal articles, tabloid and electronic media, including websites and collecting statistical data from state departments and non-state groups.
2. Key informant interviews – these involved discussions with Heads of government departments, Members of Parliament, political party leaders, CSO leaders, journalists and academics active in the anti-corruption field
3. Interviews with the key stakeholder – this involved two extended interviews with the former Director General (DG) of CIABOC (Feb 2015 – October 2016), and two senior members of staff.
4. Discussion and justification of assessment scores with the key stakeholder – this took place at a meeting with former DG on 10.11.2016 and with the new DG (appointed 01/12/2016) on 15.12.2016.
5. External peer-group review (TI Secretariat/TIB).

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1. November 2013 – November 2016

The reference period for the assessment on the Anti-Corruption Agency was three years (November 2013-November 2016). Data collection took place between 1st September and 30th November 2016.

**Table 1: Dimensions of Assessment**

DIMENSIONS OF ASSESSMENT	NUMBER OF INDICATORS
1. ACA's Legal independence and Status	7
2. ACA's Financial and Human Resources	9
3. ACA's Detection and Investigation Function	9
4. ACA's Prevention, Education & Outreach Functions	9
5. ACA's Cooperation with other Organizations	5
6. ACA's Accountability and Oversight	4
7. Public Perceptions of the ACA's Performance	7
Total	50

## METHOD OF SCORING

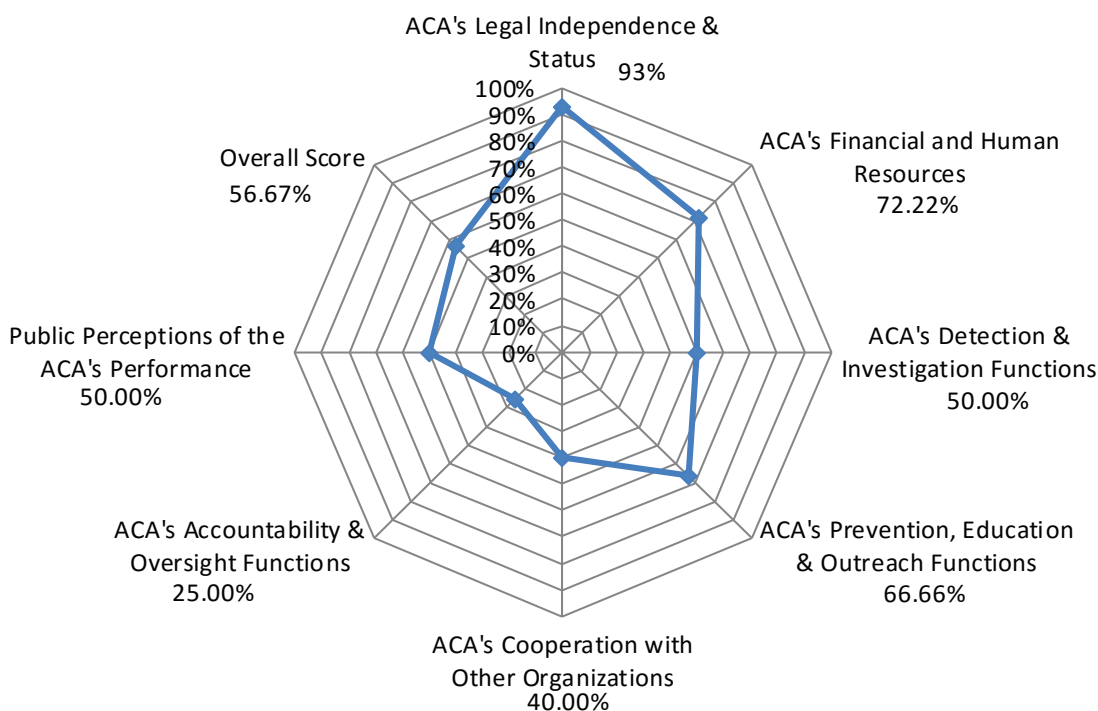
The main findings of the assessment were based on a set of 50 indicators, divided into seven categories (see table 1 above). These indicators are fashioned to capture the capacity and effectiveness of the Anti-Corruption Agency, and to identify gaps and areas of opportunity. Each indicator has been assigned one of three possible scores – high (3), moderate (2) and low (1), based on the level of standards set for each of the indicators. In order to arrive at the aggregate score for each dimension, the scores were converted from the 1 - 3 scale to a 0 – 2 scale. Thus all (1) scores become (0), all (2) scores become (1) and all (3) scores become (2). For a clear understanding of the categories as well as the overall score, it has been classified into three groups – 'high' for an overall score between 67% - 100%, 'moderate' for an overall score between 34% - 66%, and 'low' for an overall score between 0 – 33%.

## KEY FINDINGS

According to this assessment, the overall score for Sri Lanka's ACA or CIABOC is 56.67%, which falls into the 'moderate' category. It is just 9 points below the borderline of the 'high' score. It suggests that CIABOC only needs to improve its performance on a few indicators to reach a high score. While 19 indicators out of 50 scored 'high', 22 fell into the 'moderate' category and only 9 scored low. Thus 38% of all indicators are high-performing.

It can be seen that the strongest showing was made by the dimension assessing CIABOC's Legal Independence and Status (92.8%). Six indicators scored high and one moderate. This indicates that its ability to emerge as an independent and autonomous body is high. The score is marred only by the fact that the procedure followed in appointing Commissioners is not mandated, but depends on any steps the Constitutional Council (CC) may choose to take. The dimension to score the lowest involved CIABOC's Accountability & Oversight functions (25%). This suggests that while CIABOC in fact enjoys a substantial extent of legal independence, its accountability mechanisms are weak. As a public body funded by the taxpayer, CIABOC needs to exhibit a greater degree of transparency in its internal workings.

**Figure 1: CIABOC's Score by Dimension**



The next highest dimension deals with CIABOC's Financial & Human Resources (72.22%) in which five indicators scored high, three moderate and one low. Here the most under-performing indicator did so because of larger macroeconomic and structural factors, such as the proportion of CIABOC's budget to the national budget. The indicators on the security and stability of CIABOC's budget and the salary and benefits enjoyed by its personnel also scored moderate. Still, both these indicators are also not directly under CIABOC's control at the moment. The indicator addressing the level of expertise among investigators scored moderate as well, and this needs to be addressed.

CIABOC's Prevention, Education and Outreach functions performed better than the overall score (66.66%). Two other dimensions, i.e. its Detection and Investigative functions (50%) and Public Perceptions of CIABOC's performance (50%) performed more or less comparably to the overall score. Two dimensions scored much less than the overall score, i.e. its Cooperation with Other Organizations (40%) and its Accountability and Oversight function. Since these functions are so critical to CIABOC's overall performance, this emerges an area of some concern.

In sum then, CIABOC's strengths included its legal independence and status, in terms of adequate mandate and legal powers, and the fact that – at this point - the government refrains from interfering in its routine work. In the new political climate which prevails, its investigators have been steadily building up their detection skills. Innovative prevention and outreach programmes are in place. Responsiveness to corruption complaints have improved significantly over the past two years. Most significantly, CIABOC shows a readiness to investigate influential persons without fear or favour. They have also succeeded in persuading women to come forward and complain about offenses committed against them.

The summary of dimension-wise findings is given below.

### **CIABOC'S LEGAL INDEPENDENCE & STATUS**

In this dimension, six out of seven indicators have scored high. The only area of ambiguity is the procedure for appointing Commissioners, who are appointed by the President on the advice of the Constitutional Council (CC). In practice, the CC called for nominations from the public for the post of Commissioners, and subjected nominees to an interview.

But this process is not mandated. Thus the transparency and fairness of the selection process depends on the efforts of the members who comprise the CC at any given point. This is a area of potential weakness. CIABOC's legal powers which are wide, rests on three legislative acts: (a) the Bribery (Amendment) Act No.19 of 1994 which enables the setting up of CIABOC as an independent commission to deal with bribery in the public sector (b) The Bribery (Amendment) Act No.20 of 1994 which introduces a new offense of



'corruption' and (c) the Assets and Liabilities Law No.1 of 1975. Its mandate is comprehensive and its legal powers are wide-ranging. However, the extent of CIABOC's operational autonomy is questioned by those civil society groups and trade unions active in the anti-corruption field. The issue of whether the regime is using CIABOC as a weapon against its opponents also remains a charged one, with political figures outside the present coalition-in-power claiming that this is so. But their arguments are diverse and at times contradictory, and in the end, work towards substantiating CIABOC's categorical claim that they have faced no political interference in their work.

### **CIABOC's FINANCIAL & HUMAN RESOURCES**

This dimension has also performed well (72.22%). The only indicator scoring low refers to the average proportion of CIABOC's budget to the total budget, which while it indicates the priorities of the present government, is outside CIABOC's control. The security and stability of CIABOC's budget is also under dispute. Still, CIABOC feels its budgetary allocation is entirely sufficient for its needs.<sup>2</sup> Another area of moderate performance involves the salary and benefits of CIABOC personnel, which, though accepted as adequate by serving personnel, at the same time prevents CIABOC from attracting the kind of talent which can make a difference in terms of raising conviction rates. Other public bodies and CSOs engaged in the anti-corruption front remain dissatisfied with the levels of expertise of investigation personnel. Though staff selection criteria scored high, the large number of vacancies for investigators at CIABOC testifies to the inadequacy of this method of selection for the quality of staff needed by the Commission. But the focus on training investigators has intensified over the past two years. Prevention and outreach activities have also picked up remarkably.

### **CIABOC's DETECTION & INVESTIGATIVE FUNCTIONS**

This dimension recorded three areas of low performance. The most significant of these referred to average rates of convictions. While CIABOC feels its legal officers are competent in drafting charges, it admits that they lack the advocacy skills to conduct their prosecutions in court effectively. Thus out of 413 charges brought to court, only 54 convictions were secured.<sup>3</sup> CIABOC's indicator on asset recovery is affected by the low rate of convictions. Another important indicator which scored low involved the failure to separate out the gender profile of complainants. The final indicator to score low involved the willingness to initiate inquiries on its own. This power of initiation, however, was only granted to CIABOC by the 19th Amendment in May 2015.

While CIABOC's accessibility to complainants and informants, including whistleblowers over the past three years has been creditable, their responsiveness to the complaints received is seen as problematic. Anonymous complaints remain a persistent factor. But up to a third of all complaints have been submitted by groups such as political parties, trade unions and concerned CSOs engaged in anti-corruption activity who represent large constituencies and tend to compile complaints in large numbers.<sup>4</sup> Many of them reiterate that their complaints have not been addressed.

Further, unlike before, the present Commission has proceeded to interrogate many influential political figures - including a serving cabinet minister, defence secretary, three former heads of the Sri Lanka Navy - and they should be given credit for this. Against this, critics point out that no convictions have been secured to date.<sup>5</sup>

### **CIABOC'S PREVENTION, EDUCATION & OUTREACH FUNCTIONS**

This dimension scored somewhat above the overall score (66.66%). An important indicator to score low involved research and exploration of corruption risks, contexts and conditions. This indicator is significant. Research into the context of corruption will equip CIABOC staff to target its prevention activities with more precision.

Another indicator which remained moderate involved the proportion of the budget allocated to prevention and outreach activities over the past three years, which did not reach the prescribed target of 1% of the total budget. Still, CIABOC has succeeded in initiating many activities with these funds. A final area of weakness involves the information on its website and the quality of the Annual Report, which does not measure up to standard report-writing criteria.

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2. Interview with CIABOC's ex-DG on 10.11.2016.

3. However, CIABOC works with a group of 10 legal consultants who are members of the AG's dept, and who are seen as very able (interview with ex-DG, CIABOC on 2.11.2016).

4. The JVP's Dushanna Virodhi Handa says they have submitted around 150 complaints, the Dushana Virodhi Sanvidanaya which is a coalition of many groups, more than 500. The UNP MP Ranjan Ramanayaka also states that he has handed in over 150 complaints. Finally, the Dushana Virodhi Peramuna says they have given in 225 complaints (Ada of 24/10/2016)

5. CIABOC maintains that the complexity to such cases demands extensive investigations and extended court hearings, which is why convictions have not been made.

## **CIABOC'S COOPERATION WITH OTHER ORGANIZATIONS**

This is somewhat troubling terrain. While at one level CIABOC would appear to receive the support of the AG's department in handling prosecutions – even to the extent of hiring staff from the Department on a consultancy basis – in the end, rates of conviction remain low.

The level of cooperation between CIABOC and the other two other integrity agencies, the Financial Crimes Investigations Department (FCID) and the Presidential Commission to Investigate & Inquire into Serious Acts Of Fraud, Corruption & Abuse of Power, State Resources & Privileges (PRECIFAC) is low. While they communicate in order to avoid duplicating work, there does not seem to be a coordinated strategy for approaching complex cases or complaints against influential figures. Cooperation between CIABOC and NGOs, including CSOs is somewhat problematic. Some trade unions and CSOs, especially those linked to leftwing political parties complain that CIABOC's attitude towards the public is adversarial rather than supportive. A few CSOs however, say they were treated with civility, but agree that their complaints have not met with the response they anticipated after the electoral change of Jan 2015.

## **CIABOC'S ACCOUNTABILITY & OVERSIGHT FUNCTIONS**

Here the record is dismal. According to its enabling legislation (1994) CIABOC is required to produce an Annual Report detailing its activities, which is to be sent to the President. He then makes it available to Parliament. In practice, CIABOC's Annual Report was uploaded onto its website for the first time in 2015. While the website is freely accessible, the information provided is somewhat limited. While CIABOC is answerable to the CC, in practice there is no external oversight mechanism in place. Internal procedures seem equally weak. This is a serious structural weakness in an integrity agency.

The procedure for dealing with complaints against CIABOC personnel is also inadequate. Internal mechanisms for investigating complaints against its own personnel seem very weak. Since CIABOC's investigators are drawn from the police department, they fall under the disciplinary code of the Police Ordinance. They can only be disciplined by the HR Dept of the Police. But there does not seem to be a clear procedure for investigation even by the Police Dept, which often simply transfers officers out rather than take appropriate legal measures against them. Thus the outcome of complaints against CIABOC or its personnel in the past three years is that no punitive action is actually taken. In one instance there has been mention of a 'probe', the outcome of which remains shrouded in secrecy. This remains a major area of weakness.

## **PUBLIC PERCEPTIONS OF CIABOC'S PERFORMANCE**

According to Transparency International's Global Corruption Barometer (2016) 43.9% of respondents felt that CIABOC was performing its role well or very well. Against this 26.1% were dissatisfied with its performance. Public confidence in CIABOC's adherence to due process, impartiality and fairness in using its powers was also mixed. On the one hand, some influential figures who are outraged at being interrogated tend to publicly express consternation at their treatment. On the other, lower-status persons as well as members of critical CSOs feel that CIABOC is attempting to intimidate them. They point out that their complaints – though carefully crafted – have met with no response from the Commission. A significant proportion of those who have had direct contact with CIABOC interviewed by the research team are members of CSOs and political activists who represent organizations. They belong to the category of persons who have filed complaints on massive fraud of gigantic dimensions which the CIABOC, understandably enough in the present political climate, has been somewhat hesitant in investigating. This in turn makes them critical of CIABOC.

The other category of persons who have had direct contact with CIABOC are ordinary citizens. They tend to be intimidated by the somewhat adversarial approach assumed by CIABOC's Receiving Officers, who, they complain, interrogate them as if they were offenders themselves. While both categories of complainants agree that many anonymous complaints may be motivated by petty revenge, they point out that CIABOC's receiving officers cannot always assume this, and need to treat every complainant with greater respect and assume a more professional stance.

Among those who had had direct contact with CIABOC accessed by the research team, once again the response was mixed. A UNP MP who is a deputy minister in the government expressed satisfaction with the performance of CIABOC. However, it is not possible to say that those members of CSOs, NGOs and political parties interviewed expressed similar satisfaction.

Finally, the research team was not able to access any female complainants. Still, among raids into complaints of bribery and corruption cited on CIABOC's website between 2012-16, there are five instances of female plaintiffs who cite demands for sexual gratification in lieu of money, for political favours or administrative services. Of these, two such charges have resulted in convictions, with sentences including two years rigorous imprisonment suspended for ten years. This is an impressive achievement in a conservative Asian society.

# RECOMMENDATIONS

## **Legal independence and status**

1. The procedure assumed by the Constitutional Council for the appointment of Commissioners – i.e. calling for nominations from the public and subjecting nominees to an interview process – should be mandated in order to ensure greater transparency.

## **Human and financial resources**

2. CIABOC should proceed to recruit a special unit of approx 8 to 10 staff who are equipped to deal with white collar crime – inclusive of chartered accountants, criminal justice professionals and qualitative social science researchers – at suitable rates of remuneration. They should be provided with recurrent training which would help them stay abreast of best practices in investigation and research.<sup>6</sup>

3. To deal with complicated cases or cases relating to grand corruption – CIABOC should initially recruit a 3 to 4 member experienced legal team led by a leading national-level prosecutor from the AG's Department to prosecute charges in court. It should also set in place a system of rewards if convictions are secured.

4. Establish a new high court complex, preferably sited in Colombo, which is dedicated to hearing bribery and corruption cases under a trial-at-bar.

## **Detection and Investigation Function**

5. Create an official forum for the exchange of ideas with FCID and PRECIFAC, the Financial Intelligence Unit of the Central Bank, the Auditor General, Heads of the Customs/Excise departments, and if relevant, the Criminal Investigations Department (CID) in order to forge a coordinated and productive approach to complex and large-scale corruption and money laundering cases or suspects who may have influential support in government or through private investors/entrepreneurs, or underworld connections.

6. Should retain a separate register to identify the gender of complainants

## **Prevention, education and outreach functions**

7. Should seek donor assistance to engage in qualitative research into corruption risks, contexts and conditions in Sri Lankan society.

## **Accountability and oversight functions**

8. Produce a high quality Annual Report according to standard report-writing criteria

9. Provide Parliament with progress reports every two months.

10. A preliminary inquiry procedure should be devised by the Commissioners/DG to be deployed in the event of complaints against CIABOC staff. The procedure should ascertain the accuracy of the sequence of events cited in the complaint, and then expeditiously arrange a disciplinary hearing with the Police HR Department, at which either a Commissioner or DG also participates.

11. In the event of evidence of wrong-doing by CIABOC staff, disciplinary action must be taken and publicized on CIABOC's website.

12. CIABOC's confidentiality clause should be re-defined to cover only information pertaining to ongoing investigations and court cases. There should be provision for senior CIABOC investigative staff to profitably share ideas on how to approach politically-sensitive or complicated cases strategically through a forum with the auditor general and other integrity bodies.

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6. A cabinet draft has already been submitted for this cadre, but its composition should include higher quality staff.

**Table 2 - Assessment Summary: Indicators by dimension**

Dimension						
ACA's legal independence & status 92.85%	ACA's Financial & Human Resources 72.22%	ACA's Detection & Investigation function 50%	Prevention, Education & Outreach Functions 66.66%	ACA's cooperation with other organizations 40%	ACA's Accountability & Oversight 25%	Public perceptions of the ACA's performance 50%
Legal independence	Average ratio of ACA's budget to total national budget	Accessibility to corruption complainants /informants, including the public & whistleblowers	Average ratio of operating expenditure allocated to public out-reach and prevention	Govt support to ACA for prosecution of corruption cases	Information provided in and accessibility of ACA's Annual Report & website	Public confidence that govt has given ACA required powers & resources to curb corruption
Mandate	Sufficiency of budget	Responsiveness to corruption complaints	Corruption prevention initiatives	Cooperation between ACA and other integrity agencies	Oversight mechanisms	Public trust in ACA's adherence to due process & impartiality
Legal powers	Security & stability of budget	Willingness to initiate corruption investigations.	No of reviews of organizational procedures, systems & capabilities	Cooperation between ACA and NGOs	Procedure for dealing with complaints against ACA personnel	Trust in ACA's dignified and respectful treatment of persons under investigation
Appointment of Commissioners	ACA personnel's salary & benefits	Average no of cases investigated per year	Frequency of including corruption prevention recommendations in investigation reports	Participation in international Networks	Outcome of complaints against ACA or its personnel	Public perception of ACA's effectiveness in corruption control
Term of office & removal of Commissioners	Selection criteria for ACC personnel	Efficiency & professionalism of corruption investigations	Plan for prevention, education & outreach & implementation	Cooperation with ACA's in other countries		Views of ACA's effectiveness in corruption-control among persons with contact with it
Operational Autonomy & impartiality	Expertise of personnel in corruption investigation	Average conviction rate of corruption cases	Collaboration with other stakeholders in prevention, education & outreach			Views on ACA's effectiveness in dealing with complaints in women who had contact with it.
Govt's reliance on ACA as a weapon against political opponents	Expertise of ACA's staff in prevention & education	Willingness to investigate influential persons for corruption	Research and exploration of corruption risks, context & conditions			
	Training of personnel	Role in restitution, asset recovery, freezing and confiscation	Diffusion of corruption prevention information/campaigns			
	Stability of personnel	Identifying gender in compiling complaints	Use of social media & website for diffusion of information on corruption prevention			

High
  Moderate
  Low

# INTRODUCTION

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The UN Convention against Corruption (UNCAC) proposes that national legal systems should take steps to create independent bodies to enforce, implement and promote anti-corruption policies. This proposal is based on the conviction that a well-functioning oversight mechanism with a focus on anti-corruption is absolutely vital for good governance in any national context. Subsequently, in 2012, the Jakarta Principles - which were developed in consultation with a selected number of Anti-Corruption Agency (ACA) heads, practitioners and experts from around the world - emerged as a widely-endorsed standard of accountability for an effective anti-corruption agency.<sup>7</sup>

In practice, assessment against these standards is somewhat sporadic. This is partly due to a lack of political will by governments to scrutinize their own oversight mechanisms. Another reason is the lack of an appropriate and viable tool with which to measure performance. Transparency International (TI) has responded to this opportunity by developing an initiative aimed at strengthening ACAs in the Asia and Pacific region. The proposed 'Anti-Corruption Agencies Strengthening Initiative' combines biennial assessments of ACAs with sustained engagement, dialogue and advocacy at both national and regional levels.

Under this initiative, TI has developed a practical and comprehensive benchmarking tool aimed at highlighting the strengths and weaknesses of ACAs. The assessment tool was developed between 2013 and 2015 through a collaborative dialogue between Transparency International, interested staff from ACAs in the Asia Pacific region and a group of experts convened by Transparency International.

Transparency International Sri Lanka (TISL) carried out an assessment of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) of Sri Lanka. The assessment was aimed at providing CIABOC with up-to-date information regarding its current performances and opportunities for improvement in the future. It is also intended to provide a better understanding of the enabling and disabling factors which affect the ACA's efficacy to all stakeholders committed to tackling corruption in the country.

Consequently, this report comprises the findings of this independent assessment of CIABOC conducted by TISL. In addition to a comprehensive evaluation of CIABOC's performance in relation to a set of relevant indicators, the report provides some suggested approaches to address the key challenges. This report therefore serves as a guide for both CIABOC as well other interested stakeholders to strengthen and expand the impact of anti-corruption efforts in Sri Lanka.

## ABOUT THE ASSESSMENT

TISL carried out an assessment of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) between 15 August 2016 and 30 November 2016. The research was led by an independent consultant, Ms. Jani de Silva, Phd (LSE), TISL's research team and TI Secretariat's Asia Pacific team.

During the period under review however, CAIBOC's leadership underwent many shifts. In line with the requirements of the 19th Amendment (May 2015), a new Commission was appointed. A new Director General had already been appointed in February 2015. Upon her resignation in Nov 2016, another appointment to the post was made in December 2016.

The assessment process attempted to incorporate all these developments, and involved five key elements. This included White Papers, analyses of the legislation, legal reviews and discussions in the tabloid and electronic media, including newspapers, journals, official and unofficial statistics, websites etc.

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7. The principles can be found in UN office on Drug and Crime, Jakarta Statement on Principles for Anti-Corruption Agencies, 26-27 November 2012, available at [https://www.uodc.org/documents/corruption/WG-Prevention/Art\\_6\\_Preventive\\_anti-corruption\\_bodies/JAKAR-TA\\_STATEMENT\\_en.pdf](https://www.uodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKAR-TA_STATEMENT_en.pdf).

Secondly, between 01.09.2016 - 30.11.2016, the research team conducted extensive interviews with key informants, ranging from government departments such as the Attorney General's Department, the Auditor General, MPs, Members of Parliamentary Committees, the Bar Association of Sri Lanka, academics and anti-corruption groups in civil society (see list of interviewees in Annex 2).

Interviews with the stakeholders were delayed due to overseas travel by the Commissioners and DG. The DG resigned unexpectedly at this point. However, since she had been in place through much of the research period (Feb 2015-Oct 2016), the research team met with her and two members of staff on two subsequent occasions on 2.11.2016 and 10.11.2016. At the second meeting the key findings and assessment scores were presented and discussed.

On the completion of this meeting, an internal peer review was conducted by TISL. Subsequently, a draft report of the key findings and adjusted scores was sent to the new DG, (appointed on 01.12.2016), and the Commissioners on 06.12.2016. The findings and scores were discussed in detail with the new DG on 15.12.2016.

Finally, an external peer review by the Transparency International Secretariat/Transparency International Bangladesh completed the assessment.

The assessment tool is designed to capture internal and external factors impacting on the ACA as well as getting a sense of its reputation and actual performance. Consequently, a comprehensive indicator framework made up of 50 different Indicators has been developed in consultation with experts (see Annex 1). These indicators are developed with the intention of providing a platform to assess the capacity and effectiveness of CIABOC and to identify gaps and areas of opportunity.

The indicators inquire into seven different dimensions (see table 1 below). Each indicator has three possible scores - high, moderate and low – and three defined levels of value for each indicator, depending on the condition assessed. To score each indicator, the research team identified the specific details where necessary, from CIABOC themselves, their website, reports by NGOs and international organizations. Each score was further substantiated by in-depth interviews with other stakeholders in the anti-corruption struggle, concerned government agencies, government departments and civil society organizations.

This report is divided into four sections. Section 1 describes Sri Lanka's basic economic, political, and social characteristics and the perceived level of corruption. Section 2 explores the legal and constitutional backdrop within which the Bribery Commission operates.

Section 3 presents the key findings and a detailed assessment of each indicator, with comments on key issues and specific gaps have also been identified. Section 4 presents a brief set of conclusions and Transparency International's recommendations for strengthening CIABOC.

**Table 2: Dimensions of Assessment**

DIMENSIONS OF ASSESSMENT	NUMBER OF INDICATORS
1. ACA's Legal independence and Status	7
2. ACA's Financial and Human Resources	9
3. ACA's Detection and Investigation Function	9
4. ACA's Prevention, Education & Outreach Functions	9
5. ACA's Cooperation with other Organizations	5
6. ACA's Accountability and Oversight	4
7. Public Perceptions of the ACA's Performance	7
Total	50

# 1. SRI LANKA'S POLICY CONTEXT AND PERCEPTIONS OF CORRUPTION

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## ECONOMY

Into the second decade of the new millennium, Sri Lanka remains a lower middle-income state. The island struggles to overcome economic issues faced by many small, multi-ethnic states. The island is situated at a strategic point on the main East-West Indian Ocean shipping routes. In the early-19th century, the British saw this location as an ideal site from which to position themselves in their attempts to wrest military control of the Indian subcontinent. But the age of globalization brings new options. The present government aims to exploit its location to develop the island into a financial and trading hub in South Asia.<sup>8</sup>

Such optimism about the possibilities of the Sri Lankan economy could only blossom after the ending of the debilitating 26-year-old civil war. In 2009, the United Peoples' Freedom Alliance (UPFA) scored a resounding military victory over separatist Tamil rebels. The victors seized the moment to call presidential elections, which they won by a decisive margin. But celebrations were short-lived. International condemnation of the human rights abuses said to have occurred during the final, bloodiest stages of the war grew more unremitting over the months. In the triumphalism of victory though, the UPFA would brook no criticism. Consequently, in 2010, the European Union withdrew Sri Lanka's GSP+ status.<sup>9</sup> This was a serious blow to the economy.

At this point the economy - already reeling from the global escalation of oil prices in 2004 to 2007 - faced unprecedented pressure on its balance of payments. Over the next few years, the extreme volatility in global financial markets impacted on Sri Lanka's exchange rates and interest rates. The economy also faced the adverse effects of climate change in the form of extremities of weather; droughts followed by floods.

Despite such ill omens, the UPFA coalition attempted to address the devastation caused by decades of war by embarking on a massive infrastructure-building strategy. This initiative was financed by commercial as well as concessional foreign funds. The sudden influx of millions of dollars into a dormant economy led to an unrestrained spending spree by UPFA political figures at the national, provincial and local levels. Tender procedures were often by-passed, regulations waived and accounting conventions flouted. But the economy grew at an astonishing average of 7.27% between 2011-14.<sup>10</sup>

Further, these developments were accompanied by a de facto concentration of powers in the hands of the Presidential family. The President's brother was Defense Secretary. He wielded power over Sri Lanka's numerically formidable armed forces, vast swathes of land still under occupation in the Tamil-speaking areas and prime real estate in the capital owned by the army. Another brother was Speaker of Parliament. A third held the powerful Economic Development portfolio which spearheaded the infrastructure building programme. His son, nephews and cousins occupying key political and diplomatic posts led to charges of nepotism and cronyism. This created an environment of mounting claims of corruption against the UPFA at all levels and much public outrage.

In January 2015 a new coalition swept into power, comprised of reformist factions within the UPFA itself and the opposition United National Party (UNP). The UNP-UPFA coalition campaigned on a specifically anti-corruption and 'good governance' (yahapalanaya) platform. In the months which followed, law enforcement and anti-corruption agencies began investigating officials and politicians connected to the previous government on charges of corruption. In January 2017, the coalition succeeded in its efforts to recover GSP+ privileges for Sri Lanka's exports.

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8. Bureau of Economic & Business Affairs, USA. 2016 Investment Climate Statements Report 5 July 2016([www.state.gov/e/eb/ris/other/ics/2016/sea/254491.htm](http://www.state.gov/e/eb/ris/other/ics/2016/sea/254491.htm)) (accessed on 19.11.2016).

9. Generalized Scheme of Preferences. These were specially significant for the burgeoning ready-made apparel sector.

10. Central Bank of Ceylon, Review of the Economy (2014)

The economic outlook, however, is not too promising. Migrant remittances grew from US \$ 4,116 million in 2010 to US \$ 6,980 million in 2015 but the trend is already weakening.<sup>11</sup> Exports have declined. The rupee depreciated approx 9% in March 2015.<sup>12</sup> Growth has dropped to 4.8%.<sup>13</sup> The budget deficit also rose from 5.4% of GDP in 2013 to 7.4% in 2016.<sup>14</sup> And in March 2016, rating agencies revised Sri Lanka's credit rating outlook from 'stable' to 'negative'.<sup>15</sup> The UNP-UPFA coalition's efforts to boost the economy are constrained by this large fiscal deficit which is the product of structural factors such as the slowing global economy as well as reckless spending by previous regimes.<sup>16</sup>

Still, the Gross Domestic Product (GDP) grew marginally to reach US \$ 82 billion.<sup>17</sup> Per capita income went up to US \$3,925 in 2015, which is still one of the highest in South Asia.<sup>18</sup> In the first quarter of 2016 the economy expanded by 5.5% and in the second by 2.6%, compared to the previous year. It is projected to grow approx. 5.3% in 2016.<sup>19</sup>

While the economy stumbles, the pressure for the UFPA-UNP coalition to take steps to recover the billions of dollars said to have been siphoned off by the ex-President, his family and immediate associates is growing. This poses an even greater burden on integrity agencies such as CIABOC.

## POLITICS

Sri Lanka received universal franchise in 1933. When independence arrived in 1948, a parliamentary system was already in place. The island also had a booming plantation economy yielding substantial export surpluses.<sup>20</sup> In the early-1950s, a key faction broke away from the pro-capital United National Party (UNP) in power. The new group became the Sri Lanka Freedom Party (SLFP). Over the next decade, a two-party electoral system complete with the requisite capital/welfarist ideological repertoire had evolved.<sup>21</sup>

This promising start, however was soon shattered by political violence. By the 1970s, Sinhala-speaking Maoist insurgents had launched their first armed uprising and subsequently Tamil separatist rebels unleashed up to four 'Eelam' wars.<sup>22</sup> These developments have impacted negatively on civic rights over the decades, vitiated democratic institutions and created loopholes for massive corruption to rear its head.

Over the first few decades, successive governments exploited export surpluses to set in place a substantial welfare network, including free universal education, healthcare and a subsidized public transport network. But with the secular decline in the terms of trade for primary products in the 1950s and 1960s, export surpluses began to diminish. A foreign exchange crisis ensued. This led to a decision to close the economy, in a desperate bid to conserve external assets. It marked the beginning of a regulated economy which prevailed over the next two decades. The state began moving into key industries and starting state ventures in strategic industries such as basic metal, cement, timber, ceramics and salt. But the excessive regulation of the economy led to abuses, nepotism and cronyism, all of which resulted in the gradual de-professionalization of the Public Service. It created a situation where in order for the ordinary citizen to obtain any kind of service from the state, officials had to be bribed.

By the early-1970s, the stagnation of the economy, rise in landlessness among the agrarian poor and high levels of unemployment – especially educated unemployment – paved the way for the first armed uprising of the Janatha Vimukthi Peramuna (JVP).<sup>23</sup> The April Uprising was soon crushed. However, the

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11. Department of Census & Statistics, Colombo (2016).

12. Ibid.

13. Ibid.

14. Ibid.

15. US Bureau of Economic & Business Affairs, Investment Climate Statements 2016: Sri Lanka.

16. According to the US Bureau of Economic & Business Affairs' 2016 Investment Climate Statements report on Sri Lanka, the government carries a large foreign debt burden and a persistent current account deficit. This Foreign debt comprises of both commercial and concessional debt (including debt owed to China for massive investments on infrastructure). Also, the Sri Lanka governments' tax revenue to GDP ratio is one of the lowest in the world.

17. Department of Census & Statistics, Colombo (2016).

18. Ibid.

19. Ibid.

20. Between 90-95% of Sri Lanka's external assets were built on the export of three primary crops tea, rubber and coconut. Wriggins, Howard, (1960), Ceylon: the dilemmas of a new nation. Princeton University Press, Princeton

21. The UNP has always tended to be pro-capital, while the SLFP nurtured social democratic/welfarist tendencies which unfolded in its electoral alliances with the parliamentary Left. Over the decades though, the UNP has learnt the electoral value of welfarism and the SLFP the need for investment capital for economic development.

22. 'Eelam' is a version of the Tamil name for Sri Lanka.

23. The JVP was then a Maoist-led New Left grouping which broke away from the Old Left parties such as the Communist Party (CP) and the Trotskyite Lanka Sama Samaja Pakshaya (LSSSP) who were at that point part of the ruling United Left Front (ULF) coalition. The SLFP remained the leading bloc in the ULF. The JVP's support base is Sinhala-speaking, and in the coming decades it evolved into an extremist Sinhala nationalist grouping.



United Left Front (ULF) coalition-in-power, convinced that land hunger was the main motivation for this uprising, embarked on a massive land reform programme. This not only fragmented the holdings of all large landowners, but also impacted on the viability of the plantation agricultural sector. It paved the way for a shift of resources into industry.

In 1977, a swing of political power brought in the pro-capitalist United National Party (UNP). The UNP initiated a new Presidential Constitution, which concentrated powers in the Executive, in particular the office of the President. It allowed the President to appoint persons to key posts in the Public Service, which up to this point had been the prerogative of career public servants. This process began the gradual politicization of the already innervated public sector. It was accompanied with moves to liberate the economy, de-regulate import-export controls and attract Direct Foreign Investment (DFI). Such moves involved establishing Export-Processing Zones (EPZs), which became economic enclaves within which trade union activity was banned.

There were other attacks on civic rights. In 1978, the civic rights of Mrs. Sirimavo Bandaranaike, leader of the Sri Lanka Freedom Party (SLFP) - the largest group in the ULF coalition - were removed under very dubious pretexts.<sup>24</sup> This created a groundswell of dissent which began in the vibrant public sector trade unions and spread to the rest of the economy. By 1981, a call for a General Strike had emerged.

The strike was crushed by locking out 80,000 workers. This development set the stage for an increasingly repressive climate which rolled-back decades of civic rights. The conduct of the Referendum in 1982, which aimed to extend the term of the UNP without elections furthered this dismal trend. Finally in July 1983, the infamous anti-Tamil riot was orchestrated in which up to 1000 Tamil civilians died.

In the wake of the events of 'Black July', thousands of young Tamil-speaking men and boys joined a range of militant movements. This created the backdrop for the 1st Eelam War (1983-7). It ended with the signing of the Indo-Lanka Peace Accord in 1987. The Accord was signed due to unrelenting pressure from India.<sup>25</sup> It included the Provincial Councils Act of 1987, which became the 13th Amendment to the constitution. The Act allowed for a measure of political devolution to the provinces. This was especially significant for the Tamil-speaking areas, which could then administer themselves Tamil rather than Sinhala as was the case elsewhere in the island. However, this move was seen by the Sinhala-speaking electorate as a concession to federalist demands by separatist militants. Dissent against the ILPA created the backdrop of the 2nd Uprising of the JVP (1987-90).

**Table 3 - Policy context of Sri Lanka**

DIMENSION	DATA	DATA SOURCES
Land area	65,610 sq km	Dept of Census & Statistics, Sri Lanka, 2016
Population	20,843,463	Dept of Census & Statistics, Sri Lanka, 2016
GDP per capita	US \$3,925	Dept of Census & Statistics, Sri Lanka, 2016
Type of Government	Presidential Democracy	2nd Republican Constitution (1978)
Voice & Accountability Index (2014)	-0.72 (-2.5 to +2.5) <sup>26</sup>	<a href="http://www.theglobaleconomy.com/sri_lanka/wb_voice_accountability/">www.theglobaleconomy.com/sri_lanka/wb_voice_accountability/</a>
Political Stability Index (2014)	-0.25(-2.5 to +2.5) <sup>27</sup>	<a href="http://www.theglobaleconomy.com/sri_lanka/wb_political_stability/">www.theglobaleconomy.com/sri_lanka/wb_political_stability/</a>
Government effectiveness index (2014)	0.09(-2.5 to +2.5)	<a href="http://www.theglobaleconomy.com/sri_lanka/wb_government_effectiveness/">www.theglobaleconomy.com/sri_lanka/wb_government_effectiveness/</a>
Regulatory Quality Index (2014)	-0.08(-2.5 to +2.5)	<a href="http://www.theglobaleconomy.com/sri_lanka/wb_political_stability/">www.theglobaleconomy.com/sri_lanka/wb_political_stability/</a>
Rule of Law Index (2014)	0.15(-2.5 to +2.5)	<a href="http://www.theglobaleconomy.com/sri_lanka/wb_rule_of_law/">www.theglobaleconomy.com/sri_lanka/wb_rule_of_law/</a>

24. The actual reason given was her role in extending the rule of the SLFP 1975-77 under Emergency Regulations.

25. At this point, India was affected since thousands of Tamil-speaking refugees, including militant activists, were moving into her southern state of Tamil Nadu, which was destabilizing this Tamil-speaking state.

26. Voice & Accountability Index captures perceptions of the extent to which citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association and a free media. Sri Lanka was ranked 138 out of 192 countries.

27. The index is a composite measure as it is based on several other indexes from multiple sources including the Economist Intelligence Unit, the World Economic Forum, and the Political Risk Services, among others. The underlying indexes reflect the likelihood of a disorderly transfer of government power, armed conflict, violent demonstrations, social unrest, international tensions, terrorism, as well as ethnic, religious or regional conflicts. The methodology of the overall index is kept consistent so the numbers are comparable over time. You may also want to have a look at the following indicators: Sri Lanka was ranked 122 out of 191 countries.

The July Uprising unfolded with excessive violence. Insurgent activists embarked on an assassination campaign which targeted leading political figures in the UNP, and later the armed forces. The UNP responded with great ferociousness. Between July 1987-October 1990, up to 60,000 persons are thought to have been killed.<sup>28</sup> The July Uprising was crushed by October 1990. But soon after, the LTTE launched its 2nd Eelam War(1990-95).<sup>29</sup> This military initiative ended with the fall of Jaffna in 1995.<sup>30</sup> By this time, the UNP had been electorally defeated and the SLFP, which was now the leading partner in the People's Alliance (PA) was once again in power. The 3rd Eelam war started soon after, and continued until 2000. Throughout this period, leading political figures from both the UNP and the SLFP were subject to assassinations and assassination attempts by the LTTE, including an attempt on Chandrika Bandaranaike, President and leader of the PA, in December 1999. She survived.<sup>31</sup>

She also survived subsequent Presidential elections. In order to arrest the deterioration of the public sector, in October 2001, the PA brought in the 17th Amendment to the constitution. This amendment established the Constitutional Council (CC) and seven independent commissions. It aimed to reduce the politicization of the public sector and create a space for officials to display greater impartiality in serving the public.<sup>32</sup>

However, her government fell in 2001, creating a space for the leader of the UNP, Ranil Wickramasinghe, to come in as Prime Minister.<sup>33</sup> The UNP negotiated a second Peace Fire Agreement in February 2002. They also presented their pro-capital 'Regaining Sri Lanka' initiative, which called for increased liberalizations to tap the opportunities offered by globalization. However, an electoral shift in 2005 brought in the UPFA once again. In response to consistent cease-fire violations by the LTTE - including targeted assassinations of key political/military figures and suicide bombs in heavily populated areas - the PA launched what unofficially became the 4th and final Eelam war in 2007. The war was won in 2009.

Still, after the initial euphoria, it became clear that the termination of the war did not spell the immediate return of civic freedoms. In 2010, the PA also brought in the 18th Amendment which removed the constitutional provision which disallowed the President from contesting elections for more than two terms. It also dissolved the CC and brought all independent commissions under the authority of the President. Even more menacing was the unprecedented step taken by the President to throw his key electoral rival, ex-army chief General Sarath Fonseka - who in fact spearheaded the victorious war – into jail on very flimsy charges.<sup>34</sup> This move created a great wave of disaffection throughout the electorate. A new climate of intolerance emerged, in which public political dissent was depicted by the regime in the state-controlled media as akin to betrayal of the Sinhala nation. Private media networks critical of the government were bombed or vandalized by PA-linked goons, journalists and political opponents threatened or even assassinated.<sup>35</sup>

A year later the regime presented legislation to Parliament which sought to enlarge the powers of the already all-encompassing Ministry of Economic Development. The ministry was headed by the President's brother. But the Supreme Court rebuffed them. Astonishingly, the regime proceeded to bring impeachment charges against the Chief Justice, and rush these through Parliament, over which the PA now held a two-thirds majority.<sup>36</sup> Despite a tremendous public outcry, she was removed. All these developments fuelled renewed calls by international human rights and workers rights organizations to call for investigations into the conduct of the final phases of the 4th Eelam war and subsequent developments.

It was in this fraught climate that a decision to call Presidential elections was made, in order to buoy up the Presidents' political position internally in the face of rising popular dissension. In view of the fate of his previous rival, he remained confident that his bid would go unchallenged. However, at this point, Maithripala Sirisena, a leading figure in his own cabinet broke away, and campaigned with the opposition UNP. He brought a significant segment of the SLFP vote base with him. After his electoral victory, Sirisena regained control of the SLFP.

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28. Lankadeepa Editorial of 24.04.1994 and Mirror of 14.04.1996, among others. This figure is of course contested by the UNP but confirmed by Colombo-based Human rights groups including Amnesty International.

29. Liberation Tigers of Tamil Eelam (LTTE) the leading Tamil militant group which dominated the movement over the next two decades.

30. Jaffna is the largest city in the Tamil-speaking areas and the heartland of Tamil nationalism.

31. She suffered heavy head injuries and lost an eye.

32. Sri Lanka Country Report (2003), National Integrity Systems, Transparency International, UK, p 8

33. Ms. Bandaranaike retained her position as President, as enabled by the 1978 constitution.

34. This move echoed the decision of the UNP leader J R Jayawardene in 1978 to abolish his rival's civic rights.

35. During this period, the editor of the critical Sunday Leader was assassinated in broad daylight; a free-lance cartoonist picked up and subsequently killed. Tamil journalist Sivaram was also picked up in broad daylight and later killed. Poddala Jayantha, a veteran Sinhala trade unionist was picked up, beaten by assailants and had both his arms broken. Tamil MP and journalist Raviraj was killed by unknown assailants. The mainstream privately-owned Sirasa TV network was bombed, the Siyatha TV station also suffered a similar fate. Sundry student activists and trade union protesters were also killed during this period.

36. This is due to a dubious provision in the 1978 Constitution which allows MPs elected by a given party to shift their affiliation once in Parliament. This has led to much corruption since MPs can be bought over.

Consequently, for the first time in the history of Sri Lanka's two-party system, a coalition of the two largest parties remains in place. This enabled the passing of the 19th Amendment, which brought back the CC with renewed powers. Thus while the economy continues to stumble in the context of structural drawbacks, the political outlook is still optimistic.

## SOCIETY

Sri Lanka has a land area of 65,610 sq km. The mid-year population in 2015 was approx 20,966 million. Population density remains stable at 334 persons per sq km.<sup>37</sup> A multi-ethnic and multi-religious society, the majority of the population are Sinhala (74.9%), of whom 70.1% are Buddhists.<sup>38</sup> The largest minority are Tamils (15.3%) of whom 12.6% are Hindus.<sup>39</sup> 9.3% of the population are Sri Lankan Moors who are Muslims, and mostly speak Tamil.<sup>40</sup> Many urban Muslims are bilingual in Sinhala and Tamil.

Sri Lanka's socioeconomic indicators are progressive. Unlike elsewhere in South Asia, male and female literacy levels are mostly on par, with men having a very slight edge: 94.1% vs 92.1%.<sup>41</sup> Average life expectancy was 74.9 in 2014.<sup>42</sup> Infant and maternal mortality remains significantly lower than in the rest of South Asia. The poverty head count ratio based on PPP US \$ 1.25 per day, fell from 28.8 in 1995/96 to 6.7 in 2012/13.<sup>43</sup> Thus while economic inequalities persists, social trends are encouraging.

Sri Lanka presently tops the UNDP's Human Development Index (HDI) for South Asia, ranking 73rd out of 188 countries.<sup>44</sup> The island's HDI score rose from 0.679 in 2000 to 0.757 in 2015.<sup>45</sup> The average score for South Asia remains 0.607.<sup>46</sup>

Women are active participants in the labour force. Large numbers of women continue to travel to West Asia and West European states such as Italy and Greece as unskilled labour. This remains a controversial topic in Sri Lanka, since it has enabled the rise of various kinds of manpower-recruitment agencies, many of which exploit rural and under-aged women by demanding heavy 'fees' in exchange for foreign employment. This situation creates a space for bribery and corruption since once they arrive, many women find that their passports are confiscated by their employers, who sometimes do not pay them for months on end. In the process, such women undergo gratuitous humiliation and suffering while engaging in domestic work in alien cultural milieus. The government is attempting to upgrade the skills of such migrant workers so as to enable them to obtain better levels of remuneration and work conditions.

Many other female workers are employed in the ready-made apparel-making factories in the Export-Processing zones. While in the early phases of the setting up of these zones, unionization was banned, over the years, the sector has become increasingly organized, and succeeded in winning many rights and benefits for their workers.

Form the 1930s onwards, the dominance of Left parties within the political culture has, in many ways, radicalized Sri Lankan society.<sup>47</sup> In particular, the urban working class is militant and trade-union oriented, though the repressions of the 1980-90s has had its impact. New Left parties such as the JVP which enacted violent uprisings in the early-1970s and late-1980s, were completely decimated by the early-1990s.<sup>48</sup> However, they have succeeded in regrouping in the late-1990s and entering into parliamentary politics, often elevating the level of debate. The New Left has picked up the 'progressive' mantle of the Old Left – now decrepit and discredited - and their contribution to the debate on the need to raise national integrity levels has been most welcome. It was the JVP which successfully brought in the 17th Amendment - espousing a CC and independent commissions - by using their strategic leverage within the (then) SLFP-led UFPA coalition. It is a sad comment on Sri Lankan politics that historically, neither of the mainstream parties – the UNP and the SLFP – have favoured independent commissions, since – when in power - the politicization of the public sector has worked to their advantage.

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37. Sri Lanka socioeconomic data (2016), Central Bank of Sri Lanka.

38. Ibid.

39. Ibid.

40. Economic & social statistics of Sri Lanka (2016), Central Bank of Sri Lanka.

41. Ibid.

42. Ibid.

43. Ibid.

44. Human Development Report, UNDP (2015).

45. Ibid.

46. The Hindu, 23/01/2016.

47. Interview with Head/Department of History, Colombo University, on 14/10/2016.

48. Interview with JVP provincial councilor on 14/10/2016.

The most problematic aspect of Sri Lanka's democratic composition remains the intense culture of hostility between the two component political parties of Sri Lanka's two-party system – the UNP and SLFP - with a long history of blood-letting on both sides.

## LEVELS OF CORRUPTION

Corruption takes place at many levels in Sri Lanka. The most common forms of corruption involve bribes paid to avoid bureaucratic red tape and solicitation of bribes by government officials. This situation has its roots in the highly regulated conditions of the economy between 1950-1977. In such a culture, social prestige hinges on not being seen to abide by the rules, such as queuing up for rationed goods or for a routine administrative service. To be seen queuing up implied a lack of 'contacts' within administration or access to influential persons. Consequently, nepotism and cronyism spread across the public sector and state corporations, where employment is linked to political affiliation. Further, corruption in the public sector is a consequence of low salaries, which is a phenomenon many South Asian states are facing. Sri Lanka still lacks transparency in selection procedures for posts in the public sector. This stands in the way of a greater level of professionalism.

Until 2001, cabinet ministers were vested with the authority to make all appointments to the public service. Such a system results in the politicization of the public service. In 2001 the 17th Amendment removed this power from the cabinet and vested it in the Constitutional Council. The 18th Amendment passed in 2010, vitiated the powers of the CC. The 19th Amendment once again restored the CC in 2015. Thus over the period 2010-15, a de-professionalization of the public sector has taken place.<sup>49</sup> The present UPFA-UNP coalition is struggling to make selection processes more transparent, but is hampered by its own ministers who are under pressure to provide employment to electoral supporters.

Corruption in the public service also constitutes a formidable hurdle for private enterprise. Private companies state that they frequently have to make irregular payments or bribes in connection with access to public utilities and the awarding of licenses.<sup>50</sup> According to the World Bank, up to 8% of enterprises that deal with government licensing agencies make such unofficial payments. These amount to 5-6% of the official fee.<sup>51</sup>

Public procurement is an area marked by a qualitatively higher level of corruption.<sup>52</sup> Corruption in public procurements impacts greatly on investors in large projects, and those seeking government procurement contracts. In some instances, public funds are sometimes channeled into private companies, individuals or groups. Government procurements are required to be advertised publicly. Unsuccessful bidders have one week to complain to the Procurement Appeal Board, which may then launch an investigation. Over the last two years, the government has begun investigating such complaints.<sup>53</sup>

Police immunity also remains a serious problem, particularly in a situation where high levels of bribery and corruption complaints against police personnel prevail.<sup>54</sup> The police force is perceived as the most corrupt public institution in Sri Lanka.<sup>55</sup>

International corruption monitoring groups insist that Sri Lanka's judiciary is subject to corruption and manipulation by the political elite.<sup>56</sup> Businesses report the judiciary is not independent, public trust in politicians is low and the government is not transparent.<sup>57</sup> The independence of the judiciary is undermined by the harassment, attacks and threats meted out to judges.<sup>58</sup> Corruption remains common in the lower courts, and persons willing to pay bribes have better access to the legal system. A quarter of Sri Lankans consider the judiciary to be corrupt.<sup>59</sup>

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49. See also Transparency International: National Integrity System Assessment: Sri Lanka 2014.

50. Global Competitiveness Report (2014-15), World Economic Forum.

51. Governance in Sri Lanka (2013), World Bank.

52. Ibid.

53. In particular, the previous UPFA-led government (2010-14) is criticised for not following procurement procedures. Consequently, anti-corruption groups have brought in many complaints of such instances. It is not possible to assess to what extent proper procurement procedures are presently in place, but the issue is endlessly discussed on many civic forums as well as the tabloid and electronic media, which creates pressure of the present UPFA-UNP coalition to act in a more circumspect manner. The coalition has embarked on investigations of the troubled, million-dollar loss-making national carriers, Air Lanka & Mihin Lanka, the abrogation of key maritime security functions of the Sri Lanka Navy by the Defense Secretary, and the granting of these functions to a private security company (Avaunt Garde), among other things.

54. Human Rights Report – Sri Lanka 2013. US Department of State.

55. Global Corruption Barometer 2013. Transparency International.

56. See Bertelsmann Foundation: Transformation Index – Sri Lanka (2014). Also [www.business-anti-corruption.com/country-profiles/sri-lanka](http://www.business-anti-corruption.com/country-profiles/sri-lanka).

57. Global Competitiveness Report (2014-15), World Economic Forum.

58. Freedom in the World – Sri Lanka (2014), Freedom House.

59. Global Corruption Barometer 2013. Transparency International.

**Table 4 - Global indicators on corruption in Sri Lanka**

INDICATOR	RANK	SCORE AND RANGE
Corruption Perceptions Index <sup>60</sup>	83/175	37 (1 – 100)
Global Competitiveness Index <sup>61</sup>	73/144	4.2 (1 – 7 )
Irregular Payments and Bribes <sup>62</sup>	91/144	3.5 (1 – 7 )
Government Effectiveness Index <sup>63</sup>		0.09 (-2.5 to +2.5)
Control of Corruption Index <sup>64</sup>		-0.25 (-2.5 to +2.5)

60. Corruption Perceptions Index 2015, Transparency International ([www.transparency.org/cpi2015](http://www.transparency.org/cpi2015))

61. <http://reports.weforum.org/global-competitiveness-report-2014-2015/economies/#economy=LKA>.

62. <http://reports.weforum.org/global-competitiveness-report-2014-2015/rankings/>

63. [www.theglobaleconomy.com/Sri\\_Lanka/wb\\_government\\_effectiveness/](http://www.theglobaleconomy.com/Sri_Lanka/wb_government_effectiveness/)

64. [www.theglobaleconomy.com/Sri\\_Lanka/wb\\_control\\_of\\_corruption/](http://www.theglobaleconomy.com/Sri_Lanka/wb_control_of_corruption/)

# 2. INSTITUTIONAL BACKGROUND AND PROFILE OF THE COMMISSION TO INVESTIGATE ALLEGATIONS OF BRIBERY OR CORRUPTION

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In 1994, a spectacular electoral swing brought the People's Alliance (PA) coalition into power. The SLFP – the driving force behind the PA coalition - was at this point preoccupied with the reckless disbursement of funds by the UNP in their donor-driven development drive over the previous decade. Bribery and corruption was felt to be rife in the securing of development contracts and the misuse of public funds endemic. Thus, together with human rights, corruption became the main plank on the PA's platform.

In order to strengthen the hand of the Bribery Commissioner and equip him to deal with the new flows of irregular payments into the economy in the 1990s, it was decided to amend the Bribery Act of 1954. The Bribery (Amendment) Act No 19 of 1994 was mooted, which enabled the setting up of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) as a permanent body. Parliament subsequently also passed the Bribery (Amendment) Act No 20 of 1994, which introduced the new offense of 'corruption' into the Bribery Act of 1954. These legislative acts enable the Commission to prosecute persons for offences under the Bribery (Amendment) Act as well as the Declaration of Assets and Liabilities Law No. 1 of 1975.

The key objective of the 1994 legislation was to create an independent and autonomous body which could investigate the insidious forms of bribery which had manifested itself across the public sector. It also aimed at addressing a new range of corrupt practice which had emerged with the opening up of the Sri Lankan economy and the inflow of developmental funds over the 1980s.<sup>65</sup> Act No 19 of 1994 Section 5 (a – l) enable CIABOC to discharge a range of functions, such as:

1. To obtain or receive either written and oral evidence, and examine anyone the Commission thinks is necessary to interrogate;
2. To summon any person to be examined by the Commission and to require him/her to answer – either orally on oath or affirmation - any question which the Commission may feel is relevant to the matter under investigation. It may also require him to state any facts relevant to the matter under investigation in the form of an affidavit;
3. To summon any person and require him to produce any document or other piece of evidence he has or is under his control;
4. To give written direction to the manager of any bank to produce, within a specified time, any book, document or cheque issued by them which contains entries relating to the personal accounts of anyone under investigation by the Commission (or the spouse, son, daughter of such a person, or a company of which he is a director, etc), or to furnish certified copies of such documents;
5. To give the Commissioner-General of Inland Revenue written direction to furnish all information he may have about the affairs of the person under investigation (or the spouse, son or daughter of such a person) and to provide a certified copy of such documents.
6. To direct in writing any official in charge of a Government department, the Mayor, Chairman, Governor or Chief Executive of a local authority or Provincial Council to produce any document or certified copies of such documents the Commission may think necessary;
7. To direct any person to furnish a sworn statement in writing which sets out all his movable and immovable property, and those belonging to his spouse, son or daughter. It should also state the way in which such properties were acquired, i.e. purchase, inheritance, bequest, etc.
8. To prohibit any other person to hold in trust for the person under investigation, or a company in which he is a partner from transferring ownership during a specified time period.
9. To give written direction to the Controller of Immigration & Emigration to impound the passport and other travel documents of the person under investigation.

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65. Bribery & Corruption in Sri Lanka: strengthening the institutional framework. White Paper, USAID, Colombo, 2007)

Despite these wide-ranging powers, however, in the first six years, CIABOC was unable to make an impact on the high incidence of bribery and corruption which was unfolding during this period. While some of this was due to the on-going military initiatives (Eelam wars II and III), the ruling PA coalition's grip of political power during this period was also somewhat tenuous, and failure of the Rule of Law to prevail remained a serious constraint on Commission's authority.<sup>66</sup>

In 2001, the PA brought in the 17th Amendment to the Constitution, which established a Constitutional Council (CC) and seven Independent commissions, one of which was the CIABOC. This removed the appointment of Commissioners from the control of the President and vested it in the CC. However, in 2010, the 18th Amendment revoked all these powers. It abolished the ten member constitutional council and set up a parliamentary council under the President. It was the 19th Amendment, brought in by a coalition of the PA-UNP which restored the powers of the CC and was able to strengthen the powers of the independent Commissions, including CIABOC.

## FINANCIAL RESOURCES

CIABOC's annual budget is decided by the Treasury. Although funds for the Commission are in theory voted on by Parliament, in operational terms the Treasury determines the release of these funds. In the past, this has been a real constraint. However, the present Commission has been much more successful in accessing these funds, due to a greater measure of political will displayed by this government, at least in the initial period.

**Table 5 - Average Proportion of CIABOC's recurrent expenditure to total Government recurrent expenditure for past 3 years**

YEAR	TOTAL GOVERNMENT RECURRENT EXPENDITURE [SL RS.]	ALLOCATION TO CIABOC [SL RS.]	CIABOC ALLOCATION AS A PROPORTION OF GOVT BUDGET
2014	1,429,179,090,000	180,058,000	0.0125%
2015	1,666,785,000,000	245,500,000	0.0147%
2016	1,867,399,062,000	231,800,000	0.0124%
2017	1,850,368,313,000	236,950,000 <sup>67</sup>	0.0128%
Total	6,813,731,465,000	894,268,000	0.0132%

Source: Ministry of Finance, NBD - Budget Estimates – 2016 – Eng.pdf.

Thus 2015 saw a spike in the recurrent expenditure allocation to CIABOC (see table 5 above), this receded over, the next year. The projection for 2017 appear to signify a very slight recovery. The trend in capital expenditure, (see Table 6 below) however, is clearly declining.

**Table 6 - Average Capital Expenditure by CIABOC to total Govt capital expenditure for past 3 years**

YEAR	TOTAL GOVERNMENT EXPENDITURE [SL RS.]	ALLOCATION TO CIABOC [SL RS.]	CIABOC ALLOCATION AS A PROPORTION OF GOVT BUDGET
2014	595,710,647,000	16,069,000	0.00269%
2015	831,215,000,000	46,059,000	0.00554%
2016	1,182,750,098,000	8,200,000	0.00693%
2017	559,218,295,000	8,650,000	0.00154%
Total	3,168,894,040,000	78,197,000	0.00246%

Source: Ministry of Finance, NBD - Budget Estimates – 2016 – Eng.pdf.

66. During the conduct of the local elections in 1997, a PA MP, Nalanda Ellawala was assassinated in broad daylight by a UNP rival and the PA was unable to even take legal action against the suspect (Susantha Punchinilame) despite dozens of eye witnesses, due to the vicious intimidation campaign conducted by the UNP. Random suicide bombs and assassination attempts against senior political figures added to the instability.

67. Projection in 2016 Budget Estimates/Ministry of Finance.

## HUMAN RESOURCES

Between 1994-2014 CIABOC had 183 investigators and investigative officers who were seconded from the Police Department, and 170 civil staff.<sup>68</sup> This made up a total cadre of 353. In 2015, with a temporary increase in cadre-levels to clear up the backlog, these numbers went up to 431 investigative staff and 371 civilians, with a total of 802. At present, the number of investigators have gone down to 198, which leaves 233 vacancies. Of this 198, 15 are on opening inquiries duties, 81 officers are working on corruption cases, 28 on assets-linked cases, 28 in setting-up raids, and 46 in supervision and administrative activities.<sup>69</sup>

Over the past two years, CIABOC has developed a consistent focus on training, with weekly in-house training sessions of up to 2 – 3 hours. These are conducted by retired Interpol officers, staff from other internationally reputed investigative bureaus and senior police officers. Investigative staff at different levels are frequently sent overseas for training and re-training. CIABOC's investigators are also presently undergoing intensive training in IT skills. At the same time, serious efforts are being taken to make them more conversant in English.<sup>70</sup>

CIABOC investigates incidents upon receiving a complaint.<sup>71</sup> It prosecutes offenders against whom there is evidence of bribery or acts of corruption. It also prosecutes offenders against whom there are allegations of recent accumulation of wealth beyond his or her known means. Such complaints must contain basic details about offenders in order for an investigation to commence. The Commission also works on raising awareness of what constitutes incidents of bribery or a corrupt act and prevention activities.

When complaints are received by the CIABOC, they are sent on to the Commissioners. However, sometimes the complaint does not fall within CIABOC's purview since many complainants tend to send their complaints to multiple agencies in order to seek relief. If the complaint does not come within CIABOC's remit or lacks sufficient evidence, it is closed. If it does, sent on to the DG who sends it on to the investigations division which is headed by the Director/Investigations.

The Investigations department may pursue one of four options

1. Investigate illegal accumulations of wealth
2. Lay traps; make arrests as bribe solicitation is in progress
3. Investigate allegations of corruption
4. Inquire into bribery action after the gratification is awarded.

Once the case is completed, the Director Investigations will report to the DG on the investigation's findings. The DG will then seek advice from the Legal Branch on initiation of action against these findings. The DG keeps commissioners informed of decisions.

**Table 7 - CIABOC Profile**

JURISDICTION	PUBLIC SECTOR				NON-GOVERNMENT			
	legislators	Judiciary	Police, Military etc	Other Public service	Govt-owned corps	Public Contractors	Charities/ NGOs	All business/ Some business
1. Research, intelligence, risk Assessment & detection	Y	Y	Y	Y	Y	Y	Y	Y
2. Corruption investigation (in response to complaints)	Y	Y	Y	Y	Y	Y	Y	Y
3. Corruption investigation (own initiative)	Y	Y	Y	Y	Y	Y	Y	Y
4. Prosecution powers	Y	Y	Y	Y	Y	Y	Y	Y
5. Asset recovery/ restitution Confiscation powers	Y	Y	Y	Y	Y	Y	Y	Y
6. Prevention powers	Y	Y	Y	Y	Y	Y	Y	Y
7. Education & outreach Powers	Y	Y	Y	Y	Y	Y	Y	Y

**Note: Y = Yes, N = No**

68. CIABOC's Annual Report 2015.

69. CIABOC's Annual Report 2015, and interview with CIABOC staff on 10/11/2016.

70. Interview with asst. director, investigations, CIABOC on 10/11/2016.

71. The 19th Amendment passed in May 2015, allows CIABOC to initiate its own inquiries. However, they have not yet begun to do so.



All CIABOC employees have a statutory obligation to protect the identity of the complainants, witnesses and informants under Section 23 of the CIABOC Act and the Assistance to and Protection of Victims of Crime and Witnesses Act No. 4 of 2015.

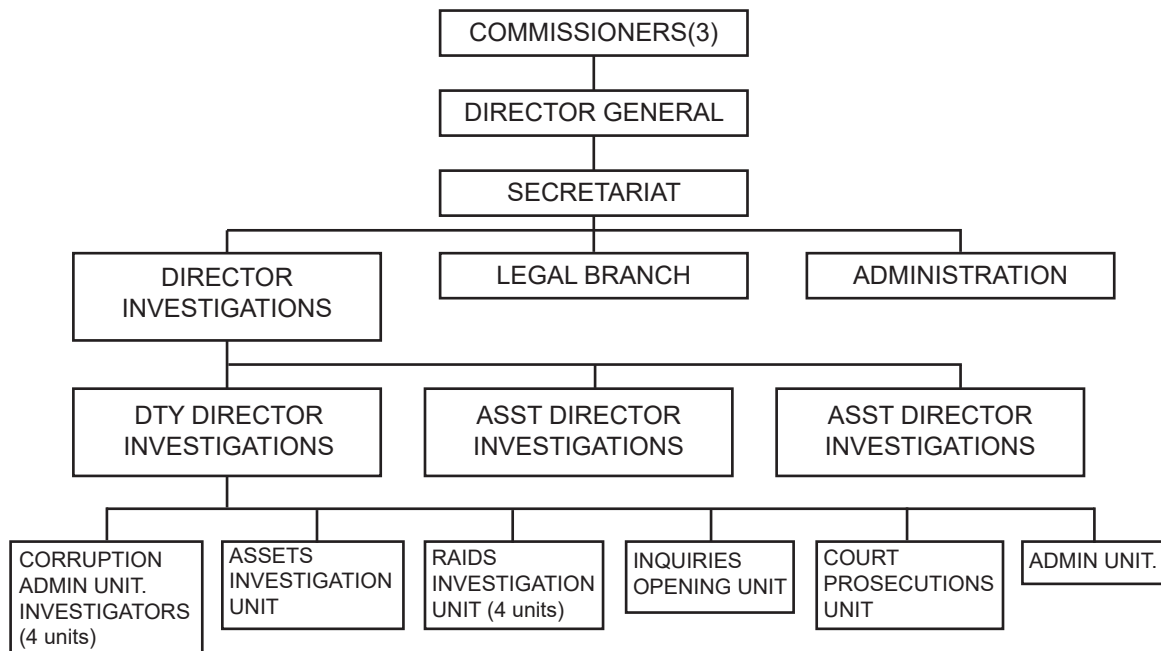
Table 7 shows that according to law, CIABOC has jurisdiction over all the public (legislators, judiciary, law-enforcing agencies and other public services) and non-governmental (government-owned corporations, public contractors, charities and NGOs and business) sectors.

## STRUCTURE

The Commission consist of three members, one of whom is the Chairman.<sup>72</sup> Two of the Commissioners are required to be retired Judges of the Supreme Court or of the Court of Appeal; and one of whom is a person with wide experience relating to the investigation of crime and law enforcement. All Commissioners are appointed by the President on the recommendation of the Constitutional Council.<sup>73</sup>

They will hold office for a period of five years and shall not be eligible for re-appointment.<sup>74</sup> The procedure for the removal of Commissioners is similar to that applied to a judge of the Supreme Court.

**Figure 2 - CIABOC'S STRUCTURE**



The Chief Executive Officer (CEO) is the Director-General (DG) who reports directly to the Commissioners. The DG also manages the investigations and prosecutions subject to the direction of the Commission. He is also the Chief Accounting Officer of the Commission as well as the Chief Administrator (see figure 2 above)

The Commission comprises of three divisions, which are Investigations, Legal and Administration. The investigative section is the largest branch, with positions for 802 investigators, of whom there are only 353 investigators in place at present.

72. Bribery (Amendment) Act No 19 (1994) section 2 (2a) and section 3.

73. Bribery (Amendment) Act No 19 (1994) section2 (2b).

74. The Commissioner's tenure is secure and they can only be removed on grounds of incapacity or misconduct and then only by an order of Parliament, supported by a parliamentary majority. [Bribery (Amendment) Act No 19 of 1994, section2 (2a) and (2b)].

## PREVENTION, EDUCATION & OUTREACH FUNCTIONS

In 2015, SL Rs.1,451,000/- was spent on prevention work, which amounted to 0.56% of CIABOC's total budget for the year. Though this was below the projected target of 1%, much has been done with these funds.

While awareness activities were conducted between 2013-2014, these were somewhat sporadic.<sup>75</sup> In 2015, CIABOC stepped-up its activities. They conducted an extensive awareness programme for state sector employees at 14 different locations. These ranged from regional police academies, traffic police headquarters, Department of Prisons and District Secretariats.

In December 2015, CIABOC officially launched their Action Plan, titled 'Seven Steps to Zero Tolerance.' This is a comprehensive plan which envisages working with three key demographic groups, i.e. school-going children, school leavers and adults. CIABOC has already submitted a draft cabinet paper for the setting up of Prevention Units to implement their Action Plan and is awaiting approval.

Meanwhile, CIABOC has been working with the National Institute of Education (NIE) which drafts syllabi and teacher-training materials for the Department of Education. The goal is to incorporate prevention and awareness concepts into primary syllabi and text books. Such concepts aim to change collective attitudes to corruption through culturally-relevant graphics, images, metaphors and narratives. These are being taught in primary classrooms, from January 2017. Meanwhile, extensive campaigns in secondary schools have already begun.<sup>76</sup>

Engaging with school-leavers will be on a more conventional lecture and discussion format, through 'Youth Mobilizing Against Corruption' (YMAC) groups organized by CIABOC's prevention staff. Work with adults will involve the starting of a public dialogue on corruption by using print media and social media. The envisaged Prevention Unit will encompass seven sectors, i.e. the Immigration department, the passport office, the excise department, police department, Identity card unit and local govt institutions and the education sector. While the Unit are not yet in place, pending cabinet approval, CIABOC staff are working with officials in these sectors to identify possible loopholes where corruption could take place. They then recommend how these loopholes should be tightened. This work is however, on-going and it is therefore too early to comment on how effective they may be.<sup>77</sup> The Action Plan also aims to work towards revising the law in keeping with the provisions of the 19th Amendment.

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74. Such activities involved working with provincial-level councillors and administrative staff. A workshop was conducted at the Galle Kachcheri conducted by an Addl. Solicitor General of the AG's Department in September 2013, for members of the Southern Provincial Council in September 2013. In May 2014, an awareness programme on bribery and corruption laws was held for the members and civil servants of the Central Provincial Council ([www.ciaboc.gov.lk](http://www.ciaboc.gov.lk))

76. Interview with CIABOC staff on 10/11/2016.

77. CIABOC Annual Report, 2015 and interview with CIABOC staff, 10/11/2016.

## 3. KEY FINDINGS

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The main findings of the assessment are based on a set of 50 indicators, divided into seven dimensions (see Table 1 above). These indicators are designed to assess the capacity and efficacy of the ACA, while identifying gaps and areas of opportunity. Each indicator has been assigned one of three possible scores – **high (3), moderate (2) and low (1)**, based on the standards set for each indicator (see table 7 for details of the standards). For a clear understanding of the dimensions as well as the overall score, they have been classified into three categories – ‘high’ for an overall score between 67% - 100%, ‘moderate’ for an overall score between 34% - 66% and ‘low’ for an overall score between 0% - 33%.

In order to arrive at the aggregate score for each dimension, the score was first converted from the 1 – 3 scale to a 0 – 2 scale. Therefore all (1) scores become (0), all (2) scores become (1) and all (3) scores become (2). This is done because when aggregating the scores and converting them into percentages, the bottom of the scale must always be 0. If the 1 – 3 scale was to be used, then the lowest possible score of any dimension would be 33% (i.e. 1/3). Once the scores are converted from the 1 – 3 scale to the 0 – 2 scale, scores received by each of the indicators of a dimension were added up and then divided by the total of the maximum possible scores for all indicators within that dimension and then multiplied by 100.

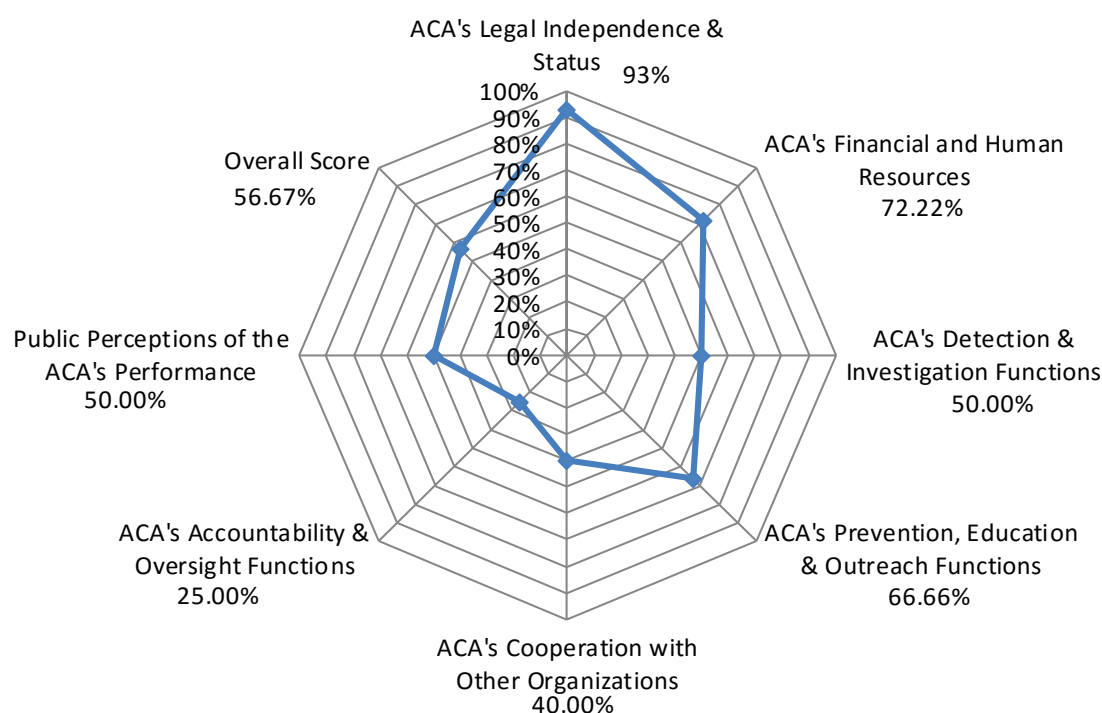
For example, the sum of the indicators under the first dimension (Anti-Corruption Agency’s Legal Independence and Status) was 13 (6 indicators received the maximum score of 2 and one received a ‘moderate’ score of 1). The maximum total possible for this dimension is 14 (i.e. 7 indicators x the maximum possible score of 2 for each). Thus the final aggregate score (percentage) for this dimension would be  $13/14 \times 100 = 92.85\%$ .

According to this assessment, the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) has achieved a **‘moderate’** score. It has an overall score of **56.67%**. The dimension on CIABOC’s Legal Independence and Status scored the highest mark (92.85%). Six out of seven indicators scored high. This indicates that its ability to emerge as an independent and autonomous body is high. The dimension on financial and human resources also rated an overall high score of 72.22%. Here five indicators scored high, while three were moderate and one low. The low score related to the proportion of CIABOC’s budget to the national budget, which is perhaps a structural feature outside the Commission’s control at this point.

The dimension dealing with CIABOC’s Prevention, Education and Outreach functions scored above the overall score (66.66%). Two other dimensions, i.e. its Detention and Investigation functions (50%) and Public Perceptions of CIABOC’s performance (50%), scored roughly similar to the overall score of 56.67%. This is due to mixed results in the individual indicators within this dimensions. Its cooperation with other agencies in the anti-corruption sector scored somewhat lower (40%). Finally, one dimension – which relates to the Commission’s Accountability and Oversight functions – scored very low, which is a serious problem in an anti-corruption agency.

This implies that CIABOC has the potential legal independence to play a powerful role in shaping the direction of Sri Lankan politics, economy and society. It needs to build up its human resources a little more. Prevention plans have got off the ground, despite delays in cabinet approval. Its investigative functions and legal role need to be enhanced and the rate of convictions must improve. It needs to innovate better forms of cooperation with other anti-corruption bodies such as the FCID and PRECIFAC. Finally, CIABOC needs to work with parliament on oversight procedures relating to how it goes about implementing its mandate. At the same time, public concerns about the conduct of CIABOC staff must also be addressed, and internal measures have to be devised for dealing with complaints against its own staff.

**Figure 1 - CIABOC'S SCORE BY DIMENSION**



## LEGAL INDEPENDENCE & STATUS

CIABOC's legal independence remains its greatest institutional strength. This attribute is valued even by its critics. CIABOC has its own premises in an up-market location in Colombo. It is answerable only to Parliament. Its legal independence is built on three legislative Acts; the Bribery (Amendment) Act No.19 of 1994 which enables the setting up of CIABOC as an independent commission to deal with bribery in the public sector, the Bribery (Amendment) Act No.20 of 1994 which introduces a new offense of 'corruption' and the Assets and Liabilities Law No.1 of 1975, No 29 of 1985 and (Amendment) No. 74 of 1988.

The first two Acts allow Commissioners to interpret what constitutes an act of bribery or corruption within the parameters of the legislation. But they remain silent on money-laundering practices. Still, today Sri Lanka is struggling with a post-conflict economy in which the flow of illicit revenues have reached heights not envisaged in 1994 by those who drafted CIABOC's enabling legislation. This has led concerned groups such as the Bar Association of Sri Lanka (BASL) to press for an extension of CIABOC's legal powers to encompass specific types of money-laundering, i.e. the laundering of funds acquired through bribery or corrupt means. Acquiring such powers they argue, would substantially heighten the chances of securing convictions.<sup>78</sup>

The Assets & Liabilities Law of 1975 and related amendments require that politicians and public servants declare their earnings at regular intervals. But the receiving authorities for such declarations range from the Elections Commissioner and Heads of Departments to the Speaker of Parliament. This disperses its impact. Further, in recent times these requirements have rarely been complied with. CIABOC alone retains the power to initiate court proceedings into non-declaration of income, unexplained earnings and accumulation of wealth.<sup>79</sup> The Act needs to be amended and a unified authority for receiving such declarations should be recognized by Parliament.

78. See Sunday Times, 04.07.2016. Also interview with Addl. Solicitor Gen. Y. Kodagoda, on 7.09.2016.

79. A petitioner can however, draw the attention of the AG, the Commissioner-General of Inland Revenue, the Head of the Department of Exchange Control and the Principal Collector of Customs to any recent acquisition of wealth by any person. (Act No 1 of 1975).

CIABOC's mandate is far-reaching and another source of strength. It encompasses the functions of investigation, prosecution, education and prevention. These are reinforced by wide-ranging legal powers, which include the power to obtain oral and written evidence and examine witnesses under oath. They allow authorized officers of the Commission to request relevant information from banks, the Department of Inland Revenue or any other institution.<sup>80</sup> They also involve search and entry powers.<sup>81</sup> CIABOC can even prohibit persons under investigation from leaving the country.

Still, if CIABOC's legal independence, mandate and powers are so comprehensive, why hasn't it performed better in the past? This brings us to the issue of operational autonomy. Its autonomy was directly affected by the 18th Amendment in 2010, which annihilated the powers of the Constitutional Council (CC). This impacted on the independence of Commissions such as CIABOC.<sup>82</sup> In line with other pillars of the integrity system, CIABOC found that its powers and mandate had become reduced to a legal fiction. It found itself confined to pursuing low-level public sector employees.<sup>83</sup> However, the 19th Amendment of 2015 restored the powers of the CC.

Despite this, critics argue that CIABOC's operational autonomy is still in practice undermined by the fact that its investigators are paid by the Police Department, and its administrative staff by the Public Services Commission (PSC). This is seen to limit its ability to raise performance levels by shaping incentives-structures. It also affects CIABOC's ability to discipline its investigative officers, since they fall under the penal code of the Police Ordinance. All these provisions are seen to bring in government regulation through the back door. CIABOC on its part insists that its operational autonomy is not affected by any of these arrangements.

Further, legal journalists, criminal justice professionals and some members of the BASL feel that CIABOC should develop a stronger legal division, which would reduce its dependence on the AG's Department.<sup>84</sup> While CIABOC is actively attempting to recruit legal staff, they are unable to attract applicants of appropriate quality. This then, remains the key problem.

Anti-corruption groups, trade unions and CSOs who were actively involved in efforts to bring down the previous regime, also question CIABOC's impartiality. In this they are joined by politicians linked to the previous regime who now oppose the coalition-in-power. Such groups continue to wonder if the Commissioners and the DG are following a hidden political agenda of their own. Unfortunately, the unethical conduct of previous Commissioners have lent substance to such negative views.

In the end, such public distrust can only be healed with time and CIABOC's continued good performance. While the former DG herself is well aware that she was perceived to be a political appointee, she categorically denies the charge.<sup>85</sup> This claim is substantiated by the enormous amount of work the present Commission has been able to get through after her appointment in February 2015. This in itself is a firm validation of the political space allowed to CIABOC by the new government.

Procedures for the appointment of CIABOC's Commissioners have become more transparent in the past two years. This is due to the active intervention of the CC. The Bribery (Amendment) Act No. 19 of 1994 states that the Commissioners will be appointed by the President on the advice of the CC and have a fixed term of five years.<sup>86</sup> Commissioners have tenure and cannot be removed except on grounds of proven misconduct or incapacity.<sup>87</sup> In the event, the CC called for nominations from the general public. They proceeded to interview nominees in order to assess their perceived integrity, reputation and ability, submitting their chosen list of candidates to the President. Here the CC's efforts can be seen as an attempt to restore the prestige of independent commissions, against a backdrop of the intense politicization of the public sector which has taken place over the past decade.<sup>88</sup> Still, this process is not mandated. It relies on the desire for transparency among members of the CC. Finally, the Director General (DG) who is the chief executive officer, is appointed by the President, in consultation with the commission.<sup>89</sup> This procedure again creates a loophole for criticisms of political links to the executive to emerge.

80. Bribery (Amendment) Act No 19 of 1994, Section 4 (2) (a) and (b).

81. Bribery (Amendment) Act No.19 of 1994, Section 5 (1) a – 1 and (6).

82. The 18th Amendment dissolved the 10 member Constitutional Council and replaced it with a 5 member Parliamentary Council. Independent Commissions were brought under the direct authority of the President.

83. See CIABOC website ([www.ciaboc.gov.lk/investigations](http://www.ciaboc.gov.lk/investigations))

84. CIABOC at present engages up to ten legal officers from the AG's department on a consultancy basis to support its own staff.

85. Upon her resignation on 18th October 2016, the ex-DG stated categorically in an interview with the Sunday leader of 24.10.2016, that she had faced no political interference whatsoever during her time at CIABOC. See also Ceylon Today 23.10.2016 and Sunday Leader 24.10.2016

86. The Act stipulates that the Commission shall consist of three members, two of whom shall be retired judges of the Supreme Court or Court of Appeal and the third, a person with wide experience in the investigation of crime and law enforcement.

87. Bribery (Amendment) Act No.19 of 1994,Section 2 (2) (a) & (b).

88. While many trace this process of politicization of the bureaucracy to the 1978 constitution, the trend which began in the 1980s picked up renewed momentum over the past decade, with the massive influx of external funds which flooded in for reconstruction activity in the post-conflict phase.

89. Bribery (Amendment) Act No.19 of 1994, Section 16 (1), (2) & (3).

This brings us to the question of whether the regime uses CIABOC as a weapon against political opponents. Predictably, factions of the UPFA who are outside the ruling coalition continue to charge that it uses CIABOC as a weapon.<sup>90</sup> Alternately, as observed above, critics from the left argue that the (perceived) weaknesses in CIABOC's performance is due to a lack of training of its staff and lack of resources to meet challenges. Yet another line of criticism maintains that there is a measure of self-censorship on the part of either the Commissioners or the DG who may feel that those who appointed them expect them to toe a certain line.

In the end, the presence of so many divergent strands in the discursive field tend to counter the relative weight of each. They illuminate the fact that even what actually constitutes political bias is in dispute among CIABOC's critics.<sup>91</sup> Since all these arguments contradict each other, they work to neutralize each other. They in fact strengthen CIABOC's position, expressed by former DG, Ms Wickramasinghe, that they faced no political interference, and have remained impartial in performing their duties.<sup>92</sup>

## FINANCIAL & HUMAN RESOURCES

The dimension on CIABOC's Financial and Human Resources scored 72.22%. While many indicators scored high, the one on CIABOC's budgetary share received a low score. This is because allocations did not reach the prescribed target of 0.2% of the national budget over the past three years.<sup>93</sup> Though there was a sharp improvement in 2015, the share fell back once again to 0.0124% in 2016 (see table 5 above). Therefore the average proportion of budget allocations over the past three years remains 0.032%.

Still, the indicator on the security and stability of this allocation fell into the moderate category. Since the UNP-UPFA coalition made corruption a key plank in its platform, budgetary allocations to CIABOC were expected to rise. In fact, while the allocation for 2015 did rise to 0.0147%, it fell the next year, only to rise very slightly in the projections for 2017 (see table 5 above), which perhaps justifies assigning it to the moderate category.

But is this allocation sufficient for CIABOC to perform its functions? This is a matter of some dispute. Many of the radical but numerically small political parties and CSOs who were involved in the effort to bring regime change feel that CIABOC's budgetary allocation is insufficient in terms of the challenges it faces. CIABOC, on its part, says that the present budget is entirely adequate. Previous Commissioners have complained of the lack of vehicles for investigators and officers to conduct raids.<sup>94</sup> But the present Commission is satisfied with the transport arrangements in place, in which the Police supply them with vehicles when required.<sup>95</sup> Further, over the past two years, many other basic inadequacies such as the lack of computers and other electronic equipment have been overcome. And though CIABOC does have a serious problem in the lack of office space for investigators, they have been granted an adjoining allotment for building expansion. Thus the sufficiency of CIABOC's budgetary allocation scores 'high'.

Salary and benefits received by CIABOC personnel remains an area of relative weakness ('moderate'). As mentioned above, CIABOC's investigators and legal officers are paid by other public bodies. In addition, CIABOC pays officers investigating bribery cases a risk allowance of 25%. Investigators are also rewarded when convictions are secured. Legal officers receive a monthly allowance from CIABOC in addition to what they are paid by the PSC. Still, salaries are low, in keeping with salaries in the public sector. This structure has not enabled CIABOC to attract the kind of legal talent which could raise rates of convictions. This is therefore another slight bone of contention between CIABOC and other groups in the anti-corruption sector, who feel a higher level of remuneration is required to attract staff of appropriate quality.

Staff selection procedures are merit-based. But entry requirements into the Police Department from which investigators are seconded are low (O/Ls or less) compared to the rest of the public sector. CIABOC subjects them to an entrance test. The large number of vacancies for investigators speaks for the high standards imposed by CIABOC relative to the aptitude of applicants.

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90. On 19th April 2015, some PA legislators opposed to the coalition protested against CIABOC's anti-corruption investigations by sleeping on the well of Parliament. This caused a great public uproar and was seen as an effort by them to pervert the cause of justice.

91. See Keerthi Tennekoon in Ceylon Today 14.10.2016; Island (Editorial) 15.09.2016; Sunday Times 26.04.2015.

92. Interview with ex-DG (2/11/2016). See also Ceylon Today 23.10.2016 and Sunday Leader 24.10.2016.

93. This computation does not incorporate capital expenditure allocations, since these cannot be spent on activities and programmes.

94. Prasanna Rodrigo in Sunday Times of 28.2.2010; Nirmala Kannangara in Sunday Leader of 22.2.2014

95. Interview with ex-DG on 2.11.2016.

The issue of the level of expertise CIABOC staff should have, is also subject to a difference of opinion. On their part, the above-mentioned groups and other anti-corruption stakeholders in the public sector are dissatisfied with the ability of investigators who they feel lack the basic numerical skills to take down complaints accurately. Investigators are thought to lack basic IT skills, mathematical aptitude, accounting expertise or auditing ability. These skills are thought necessary in the pursuit of white collar crime such as money laundering where intricate paper trails have to be tracked down. This would require the help of international agencies such as Interpol, Scotland Yard and the FBI. They suggest, therefore, that CIABOC should engage more highly-skilled and qualified staff at higher rates of remuneration. Such staff, they feel, should include those with a background in criminal justice, criminal sociology, banking, computer-programming & systems analysis as well as forensic auditors and chartered accountants.<sup>96</sup>

CIABOC's former DG responds to this criticism by saying that whenever a need arises for inputs by more highly-skilled personnel, it has the contacts and capacity to retain them on a consultancy basis. Still, she points out, the need for such highly - skilled staff does not occur everyday.<sup>97</sup> She was convinced that - due to a decision made by CIABOC's management in early 2015 to create a more enabling working environment - investigative staff are now mostly competent and improving all the time. As part of this move, the Commissioners and DG refrained from interfering with the work of investigators, so that they could build confidence. Once investigators realized that their independence would be respected and their work would not be interfered with, their ability to make impartial and independent decisions developed steadily over the past two years. This helped to improve their investigative skills.<sup>98</sup> Such a claim is supported by the fact that 5,002 files were attended to by CIABOC over 2015, while 3,021 were closed after due consideration.<sup>99</sup> Against this, in 2013, 1,797 files were closed but no investigations completed, and likewise in 2014, 937 were closed but no investigations done.<sup>100</sup>

Despite such achievements, it is clear that CIABOC's management also appreciates the need for higher quality staff, at least in some areas. Thus in April 2015, it submitted a draft cabinet paper, to enable the recruitment of a special unit of approximately ten members, including accountants, custom's officers and intelligence personnel. This has finally been approved by cabinet, but recruitment is still on-going.

Subsequently, in September 2016, CIABOC submitted another draft cabinet paper, which envisaged a new intake of 300 investigative officers, to be recruited on more elevated criteria - at the level of BA/ BSc. It was also proposed that they should have a minimum of one years' training in either the police department or any of the armed forces (including gun training). It is intended to provide them with legal training as well, by staff from the AG's Department.

**This however, is the crux of the issue.** While CIABOC has certainly raised its level of performance, it's own assessment of its staff needs do not match-up to the expectations of CSOs and NGOs in the larger anti-corruption effort in terms of the kinds of complex investigations (relating to billions of dollars rather than millions of rupees) they feel CIABOC should be undertaking. These reservations have confined the score of this indicator to 'moderate'.

CIABOC's expertise in prevention, education and outreach activities on the other hand, scored high. Staff training also scored high. In addition to on-going training activities, the new DG who took office on 1.12.2016 is also already focusing on intensifying training, including training workshops for legal personnel.<sup>101</sup>

Finally, CIABOC's staff stability also rates a high score. Staff levels have remained very stable over the past ten years, with minimal staff turnover. This stability has also generated a high level of institutional loyalty. Nonetheless numbers remain very much below institutional requirements.

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96. Interview with Chairman, COPE on 20th October 2016; Auditor General on 21st September 2016; with Convenor, Voice against Corruption on 15th September 2016 and Gen. Secy. Ceylon Teachers Union on 14th September 2016.

97. Interview with ex-DG CIABOC on 02.11.2016.

98. Interview with ex-Dg CIABOC on 02/11/2016.

99. See CIABOC Annual Report (2015) p 28, which states that 8,203 complaints were dealt with, of which 3,201 were closed down.

100. See CIABOC Annual Report p 24.

101. Interview with DG on 15/12/2016.

## DETECTION & INVESTIGATIVE FUNCTION

The dimension involving detection and investigation scored 50%. Its performance was mixed. Three indicators scored high, three were moderate and three were low. Low-performing indicators included the willingness to initiate corruption investigations, which was a new function only assigned to CIABOC under the 19th Amendment in May 2015. It has not been acted upon yet in view of the massive backlog of complaints. But it also included the indicator on the average rate of corruption convictions over the past three years. This emerges as an area of concern. Finally, the low score of the indicator on compiling complaints according to gender suggests that CIABOC remains insensitive to gender-linked problems faced by women.

CIABOC's accessibility to complainants and informants, whistleblowers and members of the public is creditable. It received 9,382 complaints in the three years from 2013-2015.<sup>102</sup> This makes for an average of 3,127.3 complaints per year, in a population of 20,966 million. This implies that approx. 0.0149% of the national population took steps to complain about corruption in their environment, and is an improvement on previous years.

This trend unfolds against a background of some ambiguity in projections by corruption indices on Sri Lanka. The 2015 Corruption Perceptions Index (CPI) ranked Sri Lanka 83 out of 154 states, notching only 37 points out of a possible 100. This score has remained stable over the past 3 years.<sup>103</sup> According to the Global Corruption Barometer (GCB) 2016, 43.9% of respondents felt that Sri Lanka's CIABOC was doing well or very well in fighting corruption, while 26.1% did not.<sup>104</sup>

Local surveys are more nuanced and indicate that public perceptions of corruption have actually decreased sharply over the past year. A community perceptions survey on policing conducted by the Asia Foundation, Colombo, in January 2016 shows that perceptions of corruption as a key factor affecting policing dropped from 24% in 2014 to 6% in 2015. Political interference as a factor affecting policing also dropped from 56% to 39% (see table 8 below). In such a context, the above complaints ratio assumes greater significance. It becomes higher relative to perceived levels of corruption.

Anonymous complaints, however, remain a persistent factor. The desire for anonymity is perhaps linked to a lack of confidence or feelings of insecurity among complainants. In the GCB data on Sri Lanka, 30% of respondents were not confident enough to venture an opinion on levels of corruption or CIABOC's performance. This goes up to 33% among female respondents.<sup>105</sup>

**Table 7 - Community Perception on key factors affecting policing in Sri Lanka (2015)**

YEAR	CORRUPTION	POLITICAL INTERFERENCE	TOTAL
2011	26%	57%	83%
2012	17%	17%	34%
2013	28%	54%	82%
2014	24%	56%	80%
2015	6%	39%	45%

Source: [www.police.lk/images/other/community\\_police\\_perception\\_survey\\_2015.pdf](http://www.police.lk/images/other/community_police_perception_survey_2015.pdf)

(extracted from National Community Perception Survey – Sri Lanka 2015, Asia Foundation, Colombo, p 46)

CIABOC has a hotline on its website. Most complaints by individuals remain anonymous. However, approximately a third of complaints are made by political parties, trade unions and concerned CSOs who represent large constituencies and tend to be proportionately numerous in their complaints.<sup>106</sup> Such complainants tend to call press conferences before and after filing their complaints, in order to pressurise the Commission. This signifies their greater confidence in the new political climate which has evolved over past two years, as well as their greater access to CIABOC.

102. CIABOC Annual Report (2015).

103. Corruptions Perceptions Index 2015, Transparency International, Berlin.

104. Global Corruption Barometer, 2016 Transparency International (forthcoming)

105. Global Corruption Barometer 2016 (forthcoming) – Sri Lanka data.

106. The JVP's Dushanna Virodhi Handa says they have submitted around 150 complaints, the Dushana Virodhi Sanvidanaya which is a coalition of many groups, more than 500. The UNP MP Ranjan Ramanayaka also states that he has handed in over 150 complaints. Finally, the Dushana Virodhi Peramuna says they have given in 225 complaints (Ada of 24/10/2016)



With regard to whistleblowers, the initial phase of CIABOC's 'Seven Steps' initiative involves selecting a group of 'integrity officers' in each government institution to act as whistleblowers. The new Right to Information (RTI) law contains relief for whistleblowers. This in itself assigns greater validity to the act of whistle-blowing, and may encourage more people to come forward, in a context where many fear losing their jobs if they do. In this new climate it was felt that CIABOC's initiative merited a high score.

However, CIABOC's response to such complaints over the past three years received a moderate score. Until end-2014, its receptiveness has been low. Nevertheless, the appointing of a new DG and a new Commission in 2015 created a more energetic climate. This made it possible for investigations to be expedited. Faced with the uphill task of investigating a backlog of 9,752 complaints along with those received during the year (altogether, 13,665 complaints) the new Commission experimented with different investigation methods. In the process, the ex-DG was able to innovate a new, hybrid approach by January 2016, which greatly increased output. A total of 8,203 files were attended to by the DG. 3,021 of these were closed after due consideration.<sup>107</sup> However, it should be mentioned that many TUs and CSOs engaged in anti-corruption activity **reiterate that their complaints have still elicited no response from CIABOC.**<sup>108</sup> This constitutes an important omission, which brings down the score of this indicator to moderate.

CIABOC's willingness to initiate complaints scored low. However, the average number of cases investigated by CIABOC rated a high score. While the average for the period 2005-2014 is not impressive, as mentioned above, over the past two years, there has been a sharp increase in the rate.

The efficiency and professionalism of CIABOC investigators over the past three years also scored moderate. On the one hand, the number of total complaints received in 2015 was 3,913, and the number of complaints closed was 3,021. This is a positive efficiency ratio. However, many plaintiffs are dissatisfied the level of professionalism shown by CIABOC. This is because they claim that its staff, as ex-police officers, tend to view complainants such as themselves as potential suspects. This was so especially for those who came in to complain about corruption in the educational sector, with special reference to Principals and other staff demanding bribes to admit children into schools. Also, there is a popular perception that anonymous complaints, despite being framed with detailed information, were not addressed by CIABOC.<sup>109</sup> All these factors were seen as constituting a lack of professionalism. It was this perception which pushed the score down to moderate. CIABOC's ex-DG on her part reiterates that investigators have shown marked improvement over the past two years and a high level of staff commitment has been achieved.<sup>110</sup>

Against this, the average rate of conviction for corruption cases investigated over the past three years scored low. While 413 cases were filed in the High Court and the Magistrate's Courts over the past three years, only 54 resulted in convictions. This works out to an average rate of 13.07%, which is very low. It suggests a need for a higher level of professionalism in the filing of cases (see table 8 below). The rate of convictions actually dropped from 46.15% in 2014 to 12.6% in 2015. It has not picked up significantly over the first 10 months of 2016. The drop may have to do with the complexity of charges filed.

**Table 8 - Average rate of convictions to charges filed by CIABOC (2014-2016\*)**

YEAR	NO. OF CHARGES FILED	NO. OF CONVICTIONS	AVERAGE CONVICTION RATE
2014	52	24	46.15%
2015	119	15	12.60%
2016*	91	15	16.48%
Total for period	413	54	13.07%

Source: CIABOC (2016)

\*Up to October 2016.

107. CIABOC Annual Report (2015).

108. Interview with convenor, Dushana Virodhi Handa (15/09/2016) and Gen.Secy, Ceylon Teachers' Union (14/09/2016).

109. Some of these complaints are based on whistleblower information and address corruption in the ministries and state corporations.

110. Interviews with ex-DG, CIABOC on 2.11.2016 and 10.11.2016.

CIABOC's former DG insists that legal officers are competent at drafting charges, but admits that they lack advocacy skills in terms of defending their suit in court. This is due to a lack of experience. It is expected that this situation will improve with increased exposure of legal staff to more complex cases.<sup>111</sup> CIABOC's low rate of convictions also affects its role in asset recovery. When a conviction is reached, all monies and assets seized in the course of investigations are channelled into the Consolidated Fund, along with penalties and fines charged by court.

CIABOC's willingness to investigate influential persons for corruption without fear or favour, however, scored high. Still, this remains a very complex and nuanced issue. Unlike in the past, the present Commission has taken steps to call many influential political figures of the previous government – including a serving cabinet minister, an ex-Defence Secretary, three former Heads of the Sri Lanka Navy – to make statements before it. But critics outside the present government continue to accuse CIABOC of being part of a government-sponsored witch hunt.

The evidence for such a claim, however, is weak. Further, CIABOC has had to face sharp challenges in persuading such persons to come before it, including in some cases, resorting to legal action. But it should be mentioned that while charges have been filed, over the past two years, there have been no convictions of influential persons.

CIABOC's present DG responds to this criticism by pointing out that the public's sense that investigations are not yielding results does not mean that progress hasn't been made. This is because – unlike the police – CIABOC does not require the court to direct the progress of the investigation at each step, i.e. by granting permission to detain suspects, search premises, check bank accounts etc, since all these powers are granted to CIABOC by its enabling legislation. Therefore the work takes place behind the scenes, as it were. The media does not have access to key moments in the investigation. Consequently the media is not in a position to inform the public that a 'breakthrough' has been made, which creates the impression that there has been no progress.<sup>112</sup>

Finally, CIABOC's role in identifying the gender of complainants also scores low. This is because CIABOC does not in practice retain information on gender, due to the large proportion of anonymous complaints. However, even though complaints maybe anonymous, it should be possible to identify the gender of the complainants themselves on a separate register. The failure to do this implies that CIABOC does not grasp the gendered nature of many crimes against women.

## PREVENTION, EDUCATION & OUTREACH FUNCTIONS

The performance of this dimension is well above the overall score (66.66%). Three indicators scored high. These included corruption prevention initiatives, the implementation of CIABOC's Plan for prevention, education and outreach, and collaboration with other stakeholders in the anti-corruption sector. The indicators scoring moderate included the average proportion of operating expenditure allocated for prevention and education work, the number of reviews of organizational procedures, systems and capabilities, the frequency of including corruption recommendations in investigation reports, the dissemination of corruption prevention information and the use of its website and social media for disseminating such information.

A low score was received by the indicator assessing research and exploration of corruption risks, context and conditions. This indicator is important since it can allow CIABOC to target its prevention activities more specifically, and therefore emerges as an important area of opportunity.

The indicator measuring the proportion of CIABOC's operating expenditure devoted to public outreach and prevention during the past three years scored moderate. CIABOC's total operating expenditure amounted to SL Rs. 247,500,000/- in 2015, which is the only year with publicly-accessible records for operating expenditure.<sup>113</sup> The expenditure on bribery prevention (Rs. 1,451, 000) is however, taken from its budget for capital expenditure, which is something of a budgeting anomaly.<sup>114</sup> This works out to 0.54%. It brings CIABOC uncomfortably close to the boundary between moderate and low scores. Still, much has been achieved with these funds and this should be appreciated.

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111. Interview with ex-DG, CIABOC, on 10/11/2016.

112. Interview with present DG on 15/12/2016.

113. CIABOC's operating expenditure was calculated by adding-up total re-current expenditure, training & capacity building, and bribery prevention. See CIABOC's Annual Report (2015) p 36.

114. CIABOC's Annual Report (2015), p 36.

Corruption prevention initiatives over the past three years rated a high score. Between 2013-14 awareness activities were conducted, but these were somewhat ad hoc. However, as mentioned above, in 2015, CIABOC stepped-up its activities.<sup>115</sup>

CIABOC celebrated 'Anti-Corruption Day' in December 2015 with the former DG launching the anti-corruption website I-paid-a-bribe, which aims at crowd-sourcing corruption complaints. An awareness campaign in the form of an anti-corruption walk was also organized for the first time. On Anti-Corruption Day, December 2016, CIABOC organized a workshop for approx 800 public servants expected to be involved in the conducting of provincial elections in early-2017, on what constitutes electoral corruption. Provincial level politicians also participated. CIABOC is presently organizing a legal workshop for its legal officers. All these initiatives together enabled a high score.

The number of reviews of organizational procedures, systems & capabilities conducted by CIABOC to prevent corruption during the past three years rated 'moderate'. The frequency of including corruption prevention recommendations in investigation reports during the past three years also scored moderate. Though CIABOC staff state that recommendations are structured into the investigation reports, it was not possible for the lead researcher to corroborate this, by accessing a report format. This precluded a higher score.

CIABOC's plan for prevention, education and outreach and its implementation received a high score. Collaboration with other stakeholders on prevention, education and outreach activities also rated a high score. CIABOC's use of campaigns to disseminate prevention information also scored high in view of the level of organizational activity outlined above. However, use of website and social media for corruption dissemination information also scored moderate, for lack of activity. CIABOC does not use social media at present.

Finally, research and exploration of corruption risks, context and conditions rated a low score. CIABOC does not have a budget for research and exploration of corruption risks. Its website displays research done by other organizations engaged in anti-corruption work, but no independent research has been initiated.

## COOPERATION WITH OTHER ORGANIZATIONS

Performance in this dimension is slightly above the overall score (60%). One indicator scored high and the other four moderate.

The only indicator to score high referred to the extent to which CIABOC participates in international networks. The Commissioners, DG and senior staff all participate often in UNCAC, UNODC and SAARC-related events. They also take part in INGO-related and programs organized by Transparency International Sri Lanka. Staff ranging from Directors of Investigation and Asst Directors are sent abroad frequently for training, to well-known institutions in India, the UK and the USA.

The government's support to CIABOC for prosecution of corruption cases scores moderate. This is because despite a relative absence of interference from the AG's Department in its work, and despite the fact that CIABOC in fact hires legal personnel from the AG's Department on a consultancy basis, average prosecution rates remain low.

Cooperation with other integrity agencies also scored moderate. Two other integrity agencies exist. The Financial Crimes Investigation Department (FCID) which is a unit within the Police Dept, was gazetted in early-2015, after the electoral victory of the present coalition, to focus on large scale financial crime. The Presidential Commission to Investigate and Inquire into Serious Acts of Fraud, Corruption and Abuse of Power, State Resources and Privileges (PRECIFAC) on the other hand, has a slightly different focus. Also set up in the wake of the electoral victory, it deals with the massive abuses of state power and misuse of state property which (allegedly) transpired during the time of the previous government.

CIABOC points out that they share legal staff with PRECIFAC, which in practice ensures that cases handled by one agency are not duplicated in others. However, this is only an informal arrangement. PRECIFAC also constantly checks if CIABOC is following up on cases which PRECIFAC has received. This is due to the fact that complainants tend to seek relief by applying to multiple agencies at the same

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<sup>115</sup>. See Section 2.

time. However, there does not seem to be any real collaboration in investigations; nor any fruitful exchange of information on high profile or complicated cases or a common strategy towards politically sensitive cases involving 'influential' suspects. Such cases may have underworld support, or contacts with high-level political figures, or even be high-level political figures themselves, or have contacts with both the underworld and politics. Dealing with this kind of suspect may require a unified approach by all integrity agencies if they are to prevail.

CIABOC's failure to forge strategic alliances with other integrity bodies may have to do with the fact that it is tied by its confidentiality clause. Such confidentiality clauses sometimes tends to create a somewhat insular environment in which the organization concerned becomes very secretive and reluctant to share information.

Cooperation with non-governmental organizations, however, scored moderate, which is an area of some concern. This is due to complaints by some trade unions and CSOs mentioned above - especially those linked to leftwing political parties - that CIABOC's attitude towards the public is somewhat adversarial rather than supportive. This is vehemently denied by CIABOC.<sup>116</sup> But CIABOC front office staff may themselves be unaware of the extent to which the public finds their demeanour intimidating rather than encouraging. They may be preoccupied with trying to extract from the complainant what they feel is relevant information in order to put together a comprehensive complaint on paper. Further, they may feel that the complainant is motivated by petty revenge rather than public-mindedness when making an entry. This is supported by the large number of complaints which are made anonymously.

Still, as a public institution funded by the tax-payer, CIABOC staff cannot assume that complaints are motivated by self-interest alone. Even though their experience as investigators may lead them to think so, they need to remain professional and treat complainants as public-minded citizens until such time as they prove themselves not to be so. It should be mentioned that other CSOs say they were treated with civility, but go on to attribute this to the fact that they have an organization behind them.

## ACCOUNTABILITY & OVERSIGHT FUNCTIONS

This dimension rated the lowest score (25%). This is a serious area of concern. Two indicators scored moderate and the other two low.

Information provided in and accessibility of the annual report and website scored moderate. According to its enabling legislation (1994) CIABOC is required to produce an Annual Report detailing its activities, which is to be sent to the President, who then makes it available to Parliament. In practice, CIABOC's 2015 Annual Report has, for the first time, been uploaded onto its website. However, this does not compensate for lack of information on the history of its activities as a public-funded institution accountable to the public. Hard copies of previous reports are difficult to access.<sup>117</sup>

The 2015 Annual Report spelt out its mission and provided some information on its budget, number of investigations carried out over the past five years and staff vacancies. Its website is freely accessible, but the information provided is limited to a hotline and email access to the DG and the Commissioners, number of completed investigations and convictions. The website also lacks basic information on the activities of the institute, and as CIABOC staff admit, is not always updated.<sup>118</sup>

Oversight mechanisms also scored moderate. CIABOC is answerable to Parliament. It is expected to provide the relevant parliamentary committee with progress reports every two months. However, the 19th Amendment which contains these oversight provisions was only passed in May 2015. In practice, therefore, these procedures have only just begun to fall into place. This is an area of opportunity which CIABOC should pick up, since the very process of reporting on the progress of institutional activities in itself requires a self-assessment of them which would not otherwise happen.

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117. The research team was not able to access even hard copies of previous reports, despite many efforts.

118. Interview with CIABOC staff on 10.11.2016.

Procedure for dealing with complaints against ACA personnel scored low. Here the record is very problematic. There is no procedure for investigation by another public agency. In fact, a complaint of bribery against a previous CIABOC Chairman (2010-15) was investigated by the accused himself and dismissed. As evidenced by the number of articles in the electronic and tabloid media which are sharply critical of his conduct, this issue generated much public outrage.<sup>119</sup> CIABOC is not able to discipline its investigators, who come under the Police Ordinance. Disciplinary hearings have to be initiated by the Police HR Division. This is a cumbersome procedure.

In May 2016 the *Sunday Times* stated that CIABOC was probing the conduct of an investigator (Inspector A.H.M. Gamini Abeysinghe) accused of leaking confidential information. The outcome of this probe remains shrouded in secrecy, and in general, CIABOC's internal procedures lack transparency. Thus the indicator on the outcome of complaints against CIABOC or its personnel in past three years also scored low.

## PUBLIC PERCEPTIONS OF CIABOC'S PERFORMANCE

This dimension rated a moderate score (57.4%), which again is an area of some concern. The only indicator to score high, related to perceptions of CIABOC's effectiveness in dealing with complaints among female citizens who had direct contact with it.

The research team was not able to access any female complainants. However, the Sri Lanka data on the 2016 GCB (forthcoming) reveals that 42.8% of female respondents thought that CIABOC was doing well or very well in fighting corruption, while 24.1 were dissatisfied. An equal number (24.8%) were unable to form an opinion. Thus a much greater percentage of female respondents were optimistic about CIABOC's performance than not.

Further, it was noted that among the inquiries into complaints of bribery and corruption cited on CIABOC's website between 2012-16, are five instances of female plaintiffs who cite demands for sexual gratification in lieu of money, for political or administrative services. Of these, two such charges have resulted in convictions, with sentences including two years rigorous imprisonment suspended for 10 years. The first was initiated in August 2012, but the indictment only took place in March 2016. The other was made in September 2013, and the perpetrator was sentenced in January 2016. This is a 40% conviction rate, which is much better than the overall convictions record. Clearly then, while women complainants have brought charges against demands for sexual gratification before, it is only in the past two years that these have borne fruit in the courts. This indicates that the present CIABOC staff takes complaints of demands for sexual gratification seriously enough to see plaintiffs through to court.

Indicators assessing a range of perceptions from the degree of public confidence that the government has given CIABOC the powers/resources it requires for curbing corruption, in the Commission's adherence to due process and its impartiality, confidence in CIABOC's respectful treatment of persons under investigation, its effectiveness in corruption control, all scored moderate. This was because they evoked a mixed response.

Public confidence that the government has given CIABOC sufficient powers elicited a range of responses. According to the GCB's (2016) Sri Lanka data, 43.9% of respondents thought that CIABOC was doing well or even very well. 26.1% were dissatisfied and 30% did not want to venture an opinion. Against this, as mentioned above, a community perceptions survey on policing by the Asia Foundation, Colombo in Jan 2016 shows a sharp shift over the past year: public views on corruption as a key factor affecting policing dropped from 24% in 2014 to 6% in 2015. Political interference as a factor also dropped from 56% to 39% in the same period (see table 6). This implies that perceptions of corruption as well as political interference within public institutions such as the police has declined radically over 2015 (i.e. 100% -[6%+39%] = 55% of respondents have confidence in the political climate) This rates a 'moderate' score.

This note of optimism ran through all key informant interviews. Professional groups ranging from criminal justice practitioners, academics, trade unionists and journalists agree that CIABOC does have sufficient legal powers. At the same time, they qualify this assertion by pointing out that CIABOC lacks adequate resources – especially high-quality human resources. The fact that CIABOC is dependent on the Police Department to supply it with investigators is thought to be unsatisfactory. Its legal resources are also thought to be wanting, which increases its dependence on the AG's dept. This is seen to impact negatively on conviction rates.

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119. This incident was quoted by many key informants to justify their reservations on CIABOC.

Public confidence in CIABOC's adherence to due process, impartiality and fairness in using its powers also scored 'moderate.' This is again due to mixed responses to this question. As the Asia Foundation survey mentioned above indicates, perceptions of corruption as well as political interference within public institutions such as the police has declined radically over 2015. On the other hand, there is close media interest in CIABOC's activities. Here the issue of its impartiality and adherence to due process and fairness remains problematic. In fact, a succession of senior political figures expressed such consternation about CIABOC's (alleged) failure to adhere to due process or be impartial that the then-DG felt obliged to tender her resignation. The fact that she did, ironically, is testimony to the fact that she felt that she did adhere to due process and attempted to be impartial. At the same time, these incessant charges and counter-charges should be seen against a fraught political culture which has emerged in the post-conflict situation. A near breakdown of law and order and the abject politicization of public institutions prevails. This has created enormous public anger against politicians and public servants who are perceived to be culpable. In such a context, the public continues to make demands that corrupt politicians should be brought to justice which may be quite unrealistic in the short term.

CIABOC's treatment of persons under investigation also scored moderate. The research team could not access such persons. But as mentioned above, many political figures investigated by CIABOC have complained of their treatment to the media. It was in fact the (allegedly) disrespectful and inappropriate conduct of the interrogation of a senior cabinet minister (for a relatively minor charge) which set into motion the train of events which led to the resignation of the then-DG Ms Wickramasinghe on 17.10.2016.

Finally, views of persons who have had direct contact with CIABOC also scored moderate. Persons who had contact with CIABOC fall into two main categories: (a) ordinary citizens and (b) members of CSOs and political activists who represent organizations. The second category in particular, have filed complaints on massive fraud of gigantic dimensions which the CIABOC, understandably enough in the present political climate, has been somewhat hesitant in investigating. This has led to polarized responses, and those who had high expectations of massive fraud being investigated remain critical about CIABOC's performance.

Ordinary citizens on their part tend to be intimidated by the somewhat adversarial approach assumed by CIABOC's Receiving Officers, who, as mentioned above, they complain, interrogate them as if they were the offenders themselves. Many complainants construe such an adversarial response as a lack of impartiality in that CIABOC seems to respond better to higher status complainants or those with an organization backing them.

While both categories of complainants agree that many anonymous complaints may be motivated by petty revenge, they point out that CIABOC's receiving officers cannot always assume this, and need to treat every complainant with greater respect and assume a more professional stance.

**Table 9 - Assessment Summary: Indicators by Dimension**



INDICATORS										
DIMENSION	Legal independence	Mandate	Legal powers	Appointment of Commissioners	Commissioners term of office/removal	Operational autonomy/impartiality	Govt using ACA as tool against political opponents	Training of personnel (high)	Stability of personnel (high)	
<b>ACA's legal independence &amp; status (92.85%)</b>	Legal independence	Mandate	Legal powers	Appointment of Commissioners	Commissioners term of office/removal	Operational autonomy/impartiality	Govt using ACA as tool against political opponents	Training of personnel (high)	Stability of personnel (high)	
<b>ACA's human &amp; financial resources (72.22%)</b>	Average proportion of ACA's budget	Adequacy of ACA's budget (high)	Security & stability of ACA's budget (moderate)	ACA staff's salary & benefits (moderate)	Selection criteria for ACA staff (high)	Level of expertise in investigators (moderate)	expertise in prevention and education (high)	Role in restitution, asset recovery, freezing etc	Gender compiling of complainants	
<b>ACA's detention &amp; investigative functions (50%)</b>	Accessibility to complainants	Responsiveness to corruption complaints	Willingness to initiate corruption investigations	Average no of cases investigated per year	Efficiency and professionalism of corruption investigations	Average conviction rate of corruption cases	Willingness to investigate influential persons	Dissemination of corruption prevention information/ Campaigns	Use of website and social media for disseminating information on corruption prevention	
<b>ACA'S prevention, education &amp; outreach functions (66.66%)</b>	Average Proportion of operating expenditure allocated to outreach & prevention	Corruption prevention initiatives (high)	Number of reviews of organizational procedures, systems & capabilities	Frequency of including Corruption recommendations in investigation reports	Plan for prevention, education & outreach and its implementation	Collaboration with other stakeholders in prevention, education & outreach	Research & exploration of corruption risks, context & conditions			
<b>ACA's cooperation with other organizations (40%)</b>	Govt's support to ACA with the prosecution of corruption cases (moderate)	Cooperation between ACA & other integrity agencies (low)	Cooperation between ACA and civil society groups (moderate)	Participation in international networks (high)	Cooperation with ACAs in other countries (low)					
<b>ACA's accountability and oversight (25%)</b>	Information provided in and accessibility to ACA's Annual Report and website	Oversight mechanisms	Procedures for dealing with complaints against ACA personnel	Outcome of complaints against ACA or its personnel						
<b>Public perceptions of ACA's performance (50%)</b>	Public confidence that the ACA has been given sufficient powers and resources for curbing corruption	Public confidence in the ACA's adherence to due process, impartiality and fairness in using its powers	Confidence in its adherence to due process, impartiality and fairness among those who have had direct contact with the ACA	Confidence in the ACA's ability to treat persons being investigated with dignity and respect	Public perception of the ACA's effectiveness in corruption control	Perception of ACA's effectiveness in corruption control among persons with direct contact with the ACC	Perception of ACA's effectiveness in dealing with complaints among women who had direct contact with it			

Table 9 - DETAILED INDICATOR SCORES

## 1. ACA's Legal Independence and Status (7 indicators)

INDICATOR	INDICATOR VALUES			JUSTIFICATION OF SCORES
	HIGH	MODERATE	LOW	
1. ACA's Legal independence	Independent agency	Separate agency out-side ministry	Within police or ministry	<p>CIABOC is an independent Commission answerable only to Parliament (Act 19 of 1994 Section 26). Its legal independence is substantial, and rests on 3 legislative Acts; (a) Act No. 19 of 1994 which enables the setting up of CIABOC as an independent commission to deal with bribery in the public sector (b) The Bribery Act No.11 of 1954 (amended in 1994) which introduces a new offense of 'corruption' and (c) the Assets and Liabilities Law No.1 of 1975. Critics point out that the fact that CIABOC's investigators are seconded from the Police Dept and administrative staff from the Public Services Commission is a constraint to its autonomy, and brings in governmental regulation through the back door. CIABOC denies that this is so and is well satisfied with the extent of its legal independence.<sup>120</sup></p> <p>Sources: Act No 19 Section 4 (2) (a),(b) and (3) of 1994; the Assets and Liabilities Law No.1 of 1975. Also Interview with former DG (10/11/2016); interview with Auditor General (21/09/2016), with attorneys in the AG's Department; members of the BASL and legal journalists.</p>
2. ACA's mandate	Focus on investigation, prosecution, education & prevention	Primary focus on investigation	Education & prevention without investigation	<p>CIABOC's mandate encompasses all four functions of investigation, prosecution, education and prevention.</p> <p>Sources: CIABOC's Annual Review (2015), p 34; Bribery (Amendment) Act No. 19 &amp; Act No 20 of 1994. Also interviews with CSO leaders.</p>
3. ACA's legal powers	Extensive Powers (Arrest and search, probing of bank A/Cs, safe-deposit boxes, income tax records, property, search and entry of premises, etc)	Some powers	Few or none	<p>CIABOC's legal powers are wide-ranging, including the power to obtain oral and written evidence, examine witnesses under oath, request relevant information from banks, Dept of Inland Revenue or any other institution, prohibit suspects from leaving the country, enter and search premises, right to issue summons and search warrants without a court order, etc.</p> <p>The BASL is pressing for an extension of CIABOC's legal powers to encompass the laundering of funds acquired through bribery or corrupt means, in order to enhance chances of securing convictions.<sup>121</sup></p> <p>Sources: Interview with ex-DG (10/11/2016); also interviews with members of the BASL and the AG's Dept. CIABOC's Annual Report (2015); The Bribery (Amendment) Act No.19 of 1994 Section 3, Section 4 (10, (2) &amp; (3) and Section 5.</p>

120. CIABOC's ex-DG points out there are different methods of recruiting staff to CIABOC. At present, the legal officers belong to a 'closed' service and investigators belong to the Police Dept. But once they're released to CIABOC they become 'authorized officers' and therefore cannot be removed by the IGP without the consent of the Commission.

121. See also Sunday Times(4.7.2016); Ceylon Today (29/2/2016).



INDICATOR VALUES			
INDICATOR	HIGH	MODERATE	LOW
4. Appointment of ACA's Commissioners	Independent committee using objective criteria and transparent procedure	Ministerial committee using objective criteria, but procedure not transparent	PM/President makes decision & procedure is not transparent
			<p>The Bribery (Amendment) Act (1994) states that Commissioners will be appointed by the President on the advice of the CC and have a fixed term of 5 years. It also states that the Commission shall consist of three members, two of whom shall be retired judges of the Supreme Court/Court of Appeal and the third a person with wide experience relating to the investigation of crime/law enforcement.</p> <p>In practice, the CC followed the procedure in other countries in this regard and called for nominations from the general public. They proceed to interview nominees in order to assess their perceived integrity, reputation and ability, submitting their chosen candidates to the President. However, this procedure is not mandated. Therefore the level of transparency remains an option which is dependent on the initiative (and liberal composition) of the CC.</p> <p>Sources: the Bribery (Amendment) Act No. 19 of 1994, Section 2 (2a), (2b) &amp; (3) interviews with members of the BASL, AG's Department and academics. Also interview with ex-DG (10.11.2016)</p>
5. Commissioner's term of office & removal	Fixed term with tenure (difficult to remove without proper cause)	Fixed term with without tenure, but not difficult to remove Commissioners	<p>No fixed term and Commissioners can be easily replaced</p> <p>Commissioners enjoy a fixed 5-year term which is tenured and cannot be removed except on grounds of proven misconduct or incapacity. They are not eligible for re-appointment.</p> <p>Source: Bribery (Amendment) Act No. 19, Section 2 (5) (a) and (b), (6).</p>
6. ACA's operational autonomy and impartiality	High (no political interference)	Limited (some political interference)	<p>CIABOC's ex-DG denies that there was political interference in the daily operations of the Commission. She states categorically that during her tenure of 19 months she faced no political interference whatsoever. However, she resigned her post on 17.10.2016 in response to a critical comment by the Executive.<sup>122</sup></p> <p>CIABOC's impartiality, however, is contested by many CSOs, trade unions and politicians opposed to the govt. The unfortunate conduct of previous Commissioners have also fuelled public perception that Commissioners/DG are political appointees. They further complained that CIABOC was not impartial in other ways; since its staff were drawn from the police dept, front-office staff tended to replicate the somewhat adversarial attitude of the Sri Lankan police towards the public. Ordinary complainants tend to be interrogated as if they were the offenders themselves. This is thought to impact on CIABOC's impartiality. It was felt that CIABOC personnel displayed greater impartiality/professionalism towards socially-advantaged groups or those with an organization supporting them.</p> <p>Sources: Annual Report 2015, interview with Ex-DG (2/11/2016); Convenor, Ceylon Teachers' Union (22/9/2016); General Secy. Public Sector Nurses' Union (14/19/2016) and Convenor, Voice Against Corruption (15/09/2016). See also Sunday Leader (23/10/2016) and Lankadeepa (20/10/2016).</p>

122. This was a general comment made by the President to all anti-corruption agencies and not aimed at CIABOC in particular.

INDICATOR VALUES			
INDICATOR	HIGH	MODERATE	LOW
	7. Government's reliance on ACA to use corruption as a weapon against political opponents	Government has not used ACA as a weapon against political opponents	Evidence of limited use of ACA as a weapon against political opponents

**JUSTIFICATION OF SCORES**

This is complex terrain. In the present political context, for the first time in history, the two main parties in Sri Lanka's two-party system have formed a coalition, blurring lines on who is 'in' the regime and who becomes an 'opponent.'

CIABOC, in the past has mostly tended to focus on relatively minor offenders rather than the 'big fish.' However, under the new climate they have begun to interrogate influential figures. This provokes those outside the coalition to complain that CIABOC is being used as a weapon against opponents of the regime. At the same time, others argue that the perceived weaknesses in CIABOC's performance – failure to swing convictions in charges against 'big fish' - are due to a lack of training of its staff and lack of resources to meet today's challenges. Yet another line of criticism asserts that there is a measure of self-censorship on the part of either the Commissioners or the DG who may imagine that the Executive which appointed them expects them to toe a certain line.

The persistence of so many diverse criticisms which contradict each other in fact tends to neutralize the force of each and reinforces the notion that the institution is relatively impartial. CIABOC responds by pointing out that they are presently investigating highly-placed figures within the government, as well as key members of the previous government. At least one such figure has publicly admitted that he was, in fact interrogated over a complaint.

Sources: Interview with ex-DG (2.11.2016); also Interview with convenor, Public Sector Nurses' Union (14/09/2016); Chairman, COPE (20/10/2016); Sunday Times (26/04/2015); Island (Editorial) (15/09/2016); Ceylon Today,(24/10/2016).

## 2. ACA's Financial and Human Resources (9 indicators)

INDICATOR	INDICATOR VALUES			JUSTIFICATION OF SCORES
	HIGH	MODERATE	LOW	
8. Average ratio of ACA's budget to total govt budget for the past three years	Above 0.20%	Between 0.10%-0.20%	Below 0.10%	The average proportion of CIABOC's budget to total governmental budget over the past 3 years is 0.0132%. This therefore falls into the low category (See table 3).  Sources: Ministry of Finance, Budget Estimates – 2016 ( <a href="http://www.treasury.gov.ik">www.treasury.gov.ik</a> )
9. Sufficiency of ACA's budget in terms of performing its functions	More than adequate (80%-100% of budget requests approved)	Adequate (66%-79% of budget request is approved)	Inadequate (less than 66% of request approved And relies on funding by CSOs and donors	CIABOC states that its budgetary position is very satisfactory and that they have no complaints. Though at the beginning of 2015, office equipment such as computers were lacking, over the past two years this situation has improved considerably. While the Commission still lacks sufficient office space for investigators, they have been granted an adjoining block of land for building expansion.  Sources: Interview with ex-DG CIABOC (02/11/2016); CIABOC's Annual Report (2015); interview with Auditor-General (2/10/2016); also interviews with concerned journalists and academics.
10. Security & stability of ACA's budget during the past three years	Budget is guaranteed, based on previous year's allocation and has not been reduced.	Budget has not been reduced in the past three years	Budget has been reduced during the past three years	Since the new govt which swept into power in Jan 2015 made corruption a key plank in its platform, the allocations to CIABOC improved in 2015 over previous years (0.0147%). However, this level fell to 0.0124% in 2016, but improves slightly to 0.028% in projections for 2017 (see Table 5).  Sources: CIABOC's Annual Report (2015); Ministry of Finance, Budget Estimates 2016, ( <a href="http://www.treasury.gov.ik">www.treasury.gov.ik</a> ); interviews with academics and legal professionals.
11. ACA personnel's salary and benefits	Competitive salary and benefits	Adequate salary and benefits	Low salary and limited benefits	CIABOC's investigators are paid by the Police Dept and its administrative staff by the Public Services Commission. Salaries remain low, in keeping with salaries in the public sector. However, CIABOC pays officers investigating bribery cases a risk allowance of 25%. Investigators are also rewarded when convictions are secured. Legal officers receive a monthly allowance from CIABOC in addition to what they are paid by the Public Services Commission (PSC). CIABOC staff expressed satisfaction with pay conditions and benefits to the research team. Despite this, CIABOC has not been able to attract the kind of legal talent which could raise rates of conviction in court.  Source: Interview with ex-DG (2/11/2016) and CIABOC staff (10.11.2016); also with Auditor General (2/10/2016), BASL and legal journalists.

INDICATOR VALUES			
INDICATOR	HIGH	MODERATE	LOW
JUSTIFICATION OF SCORES			
12. ACA's selection criteria for staff	Meritocratic and transparent procedures	Limited degree of meritocratic & transparent procedures	Patronage and non-transparent procedures
			<p>CIABOC's investigators are seconded from the Police Dept, to which entry requirements are low (OLs or less) relative to the rest of the public sector. CIABOC subjects them to an entrance test. The large number of vacancies for investigators speaks for the high cut off point relative to the aptitude of applicants.</p> <p>CIABOC points out that the discretion allowed them to set recruitment standards has increased greatly in recent years and this should be appreciated. It has already presented a draft cabinet paper outlining elevated selection criteria for a new intake of 300 investigators to meet staff needs, which sets the bar at a first degree, and at least 1 year's training in any of the armed forces.</p> <p>Sources: Interview with Ex-DG (10/11/2016); CIABOC Annual Review (2015) p 33.</p>
13. Levels of expertise of ACA's Corruption investigation personnel	High levels of expertise	Lacks expertise in some areas	Lacks expertise in many areas
			<p>There is much dissatisfaction among CSO groups and professionals within govt departments with the ability of CIABOC's investigators, whose numerical skills seem to them to be inadequate to even take down complaints competently. Investigators are thought to lack IT skills, numerical skills, and audit/accounting ability.</p> <p>CIABOC accepts that this may have been so in the past, but denies that such a situation still persists. The ex-DG says that the skills of investigators have improved over the past with consistent in-house training and are still improving. While they do lack highly-qualified staff for complex investigations, she insists that these cases are relatively few at present, and they have the means to hire highly -qualified consultants for specific tasks as needed.</p> <p>Still, the concerns of other stakeholders in the anti-corruption front cannot be dismissed.</p> <p>Sources: Interview with ex-DG, CIABOC (2/11/2016); with CIABOC staff (10/11/2016); also interview with Chairman, COPE (20/10/2016); Convenor, Ceylon Teachers' Union (22/09/2016) Gen. Secy, Public Sector Nurses' Union (14/19/2016), Convenor, Voice Against Corruption (15/09/2016); Auditor-General (2/10/2016). Also interviews with criminal justice professionals, and journalists.</p>
14. Expertise of ACA Personnel in corruption prevention and education	High levels of expertise	Lacks expertise in some areas	Lacks expertise in many areas
			<p>Falls into the high category since in terms of educational qualifications, CIABOC's clerical staff who are recruited by the PSC are expected to have a first degree. While in the past there was little focus on prevention, over the last two years, the new Commission and DG plan to set up a Prevention Unit, with a strategy titled 'Seven steps to zero tolerance'. A draft cabinet paper has been prepared to set up such units. Though cabinet approval is pending, work is on-going. CIABOC has worked with the National Institute of Education (NIE) - which formulates syllabi and teacher-training materials for the Department of Education - to incorporate corruption awareness concepts into primary school syllabi. These came into effect in January 2017. This initiative has been welcomed by CSO and trade union leaders.</p> <p>Sources: CIABOC's Annual Report (2015) and interview with ex-DG (2/11/2016); interview with General Secy, Public Sector Nurses' Union (14/19/2016) and Convenor, CaFFE (14/09/2016); K Tennakoon in Ceylon Today (14/10/2016).</p>

INDICATOR VALUES				JUSTIFICATION OF SCORES
INDICATOR	HIGH	MODERATE	LOW	
15. Training of ACA personnel	Well-trained staff with many training opportunities	Some trained personnel with limited training opportunities	Training is seen as unimportant and neglected	<p>CIABOC has a consistent focus on training. In-house training sessions take place a a weekly basis. Training is conducted by retired Interpol officers, senior police officers. Investigative staff at different levels are also sent overseas for training and re-training. During 2015, Rs. 327,750 was spent on training and capacity building.</p> <p>While many concerned groups active in the anti-corruption field comment that CIABOC staff would benefit by high-quality IT skills, forensic audit and chartered accounting expertise, CIABOC points out the need for such inputs is limited at the moment (see indicator No.13). Further, they point out that CIABOC's staff are presently undergoing intensive training in IT skills and much effort is being made to make them more proficient in English. CIABOC's legal officers are also undergoing training on a weekly basis, by staff from the AG's Department.</p> <p>Sources: Interview with ex-DG and CIABOC staff (10/11/2016); CIABOC Annual Report (2015); interview with Auditor-General (21/09/2016) and ex-secretary, PRECIFAC (10/09/2016); also interviews with legal professionals, academics, journalists and concerned public servants.</p>
16. Stability of ACA's personnel	Low turnover and rates of resignation (0%-5% per year)	Moderate turn-over and resignation rate (between 5%-10%)	High turn-over and resignation rate (over 10%)	<p>CIABOC's staff remained very stable over the past 10 years and there has been little turnover. This stability has also generated a high level of institutional loyalty. Further, CIABOC cannot sack employees – disciplinary hearings for investigators have to be conducted by the Police HR Division and administrative staff by the Public Services Commission.</p> <p>However, in order to address the realities of the 21st century, it has been decided to raise the staff intake by at least 300 investigators.</p> <p>Source: Interview with ex-DG (2/11/2016) and CIABOC Annual Report (2015), p 33.</p>

## 3. ACA's detection and investigation function (9 indicators)

INDICATOR	INDICATOR VALUES			JUSTIFICATION OF SCORES
	HIGH	MODERATE	LOW	
17. ACA's accessibility to complainants & informants, including whistleblowers and the public over the past 3 years	ACA is highly accessible as reflected in the high proportion of corruption complaints received relative to population and perceived level of corruption and proportion of complainants confident enough to identify themselves	ACA is accessible as reflected in the moderate level of corruption complaints relative to population and perceived levels of corruption, & the proportion of complainants confident enough to identify themselves	ACA is inaccessible as reflected in low proportion of corruption complaints received, relative to population and perceived levels of corruption and anonymous complaints	<p>CIABOC received 9,382 complaints in the three years from 2013-2015. This makes for an average of 3,127.3 complaints per year, in a population of 20,966mm. This accounts for approx. 0.0149% of the population, which is a relatively high ratio.</p> <p>According to the GCB 2016 data, 43.9% of respondents felt CIABOC was doing well or very well in fighting corruption. 26.1% remain dissatisfied.<sup>123</sup> But a community perceptions survey on policing conducted by the Asia Foundation, Colombo in Jan 2016 shows that perceptions of corruption as a key factor affecting policing dropped from 24% in 2014 to 6% in 2015. Political interference as a factor also dropped from 56% to 39% (see table 4). In such a context, the above complaints ratio assumes greater significance. It becomes higher relative to perceived levels of corruption.</p> <p>Anonymous complaints, however, remain a persistent factor.<sup>124</sup> These concern complaints made by individuals. However, a significant number of complaints – perhaps a third of all complaints - are brought by political parties, trade unions and concerned CSOs who represent large constituencies.<sup>125</sup> Such groups tend to call press conferences before or after filing their complaints, in order to pressurise the Commission. This implies their greater confidence in the new political climate which has evolved over past two years, as well as the increased accessibility of CIABOC to such groups. Since such groups frequently bring in well-researched complaints (containing whistle-blower information in the case of TUs) relevant to CIABOC's mandate, they would appear to comprise significant proportion of relevant complaints. .</p> <p>With regard to whistle-blowing, the initial phase of CIABOC's 'Seven steps' initiative involves selecting a group of 'integrity officers' in each govt institution to act as whistleblowers. This takes place against the background of a new Right to Information (RTI) law which offers some relief to whistleblowers, which will give greater validity to the act of whistle-blowing, and may encourage more people to come forward, in a context where many fear they may lose their jobs if they do.</p> <p>Sources: CIABOC 's Annual Report (2015), p 35; interview with ex-DG CIABOC (2/11/2016); with General Secy. Public Sector Nurses' Union (14/19/2016); ED, Dushana Viridhi Sangamaya (14/9/2016) Convenor, Dushana Viridhi Handa (15/9/2016) Convenor, CaFFE (14/09/2016); Editor, Ravaya (5/10/2016); Deputy Solicitor-General, AG's dept (7/09/2016); legal commentators, academics &amp; CSO leaders.</p>

123. Global Corruption Barometer 2016 (forthcoming) Sri Lankan data.

124 It was not possible for the research team to access numbers of individual complaints, but CIABOC agrees that of these, anonymous complaints dominate.

125. At least one such group, Dushana Viridhi Sanvidhanaya have brought over 500 complaints to date and the Dushana Viridhi Handa over 150 claims, almost entirely on large-scale corruption. The UNP MP Ranjan Ramanayaka also states that he has handed in over 150 complaints. Finally, the Dushana Viridhi Peramuna says they have given in 225 complaints. (Ada o/24/10/2016)

INDICATOR VALUES				
INDICATOR	HIGH	MODERATE	LOW	
	JUSTIFICATION OF SCORES			
18. ACA's responsiveness to corruption complaints during the past 3 years	ACA is highly responsive as reflected in the high proportion of complaints investigated or cases completed during the past 3 years	ACA is responsive as reflected in the moderate proportion of corruption complaints investigated and cases completed during the past 3 years	ACA is not responsive as revealed in the low number of complaints investigated or completed during the past 3 years	<p>Until end-2014, responsiveness to complaints was low.<sup>126</sup> The appointment of a new DG and later, Commission in 2015 created a more energized climate. This made it possible for investigations to be expedited. In 2015 the number of total complaints received rose to 3,913, and the number of complaints closed was 3,021. This is a positive efficiency ratio.</p> <p>The new Commission faced an uphill task of investigating a backlog of 9,752 complaints along with those received during the year (all together, 13,665 complaints). The Commission experimented with different investigation methods and evolved a new, hybrid method in January 2016. This greatly increased output. 8,203 files were attended to by the DG and 3,021 closed. However, it should be mentioned that many TUs and CSOs engaged in anti-corruption activity reiterate that their complaints have still elicited no response from CIABOC. This is significant in that they together comprise around one-third of complaints (see footnote 5).</p> <p>Sources: CIABOC Annual Report (2015) p 34; Interview with ex-DG (2/11/2016); Convenor, Public Sector Nurses' Union (14/09/2016); Chairman, COPE (20/10/2016); Convenor, Dushana Virodhi Handa (15/9/2016) also interviews with CSO leaders and trade union leaders.</p>
19. ACA's willingness to initiate corruption investigations during the past 3 years	High number of corruption investigations initiated by ACA	Moderate number of corruption investigations initiated by ACA	Low number of corruption investigations initiated by ACA	<p>Prior to the enacting of the 19th Amendment in 2015, CIABOC did not enjoy powers to initiate investigations on their own. Further, the Commission appointed in October 2015 faced a backlog of 9,752 files, which did not allow them to give priority to initiating new investigations.</p> <p>Sources: CIABOC Annual Report (2015); 19th Amendment (2015).</p>
20. Average number of cases investigated by the ACA per year during the past 3 years	More than a 1000 corruption cases investigated by ACA per year in the past 3 years	Between 300-999 corruption cases investigated by the ACA per year in the past 3 years	Less than 300 corruption cases investigated by the ACA per year in the past 3 years	<p>While the average for the period 2005-2014 is not impressive, over the past two years, 8,023 files were attended to by the DG. Of these 3,021 were closed after due consideration, which leaves 5,002 filed investigated. This works out to an average rate of 2,501 files investigated per year over the past 3 years, which falls into the high category.</p> <p>Source: CIABOC Annual Report (2015) p. 24; 34.</p>

126. Many trade unions and anti-corruption organizations called press conferences to publicize their complaints and lack of response by CIABOC between Nov – Dec 2014.

INDICATOR VALUES		JUSTIFICATION OF SCORES	
INDICATOR	HIGH	MODERATE	LOW
21. Efficiency & professionalism of corruption investigated by ACA during past 3 years	Highly efficient and professional investigation of corruption cases	Efficient and professional investigation of corruption cases	Inefficient and Unprofessional investigation of corruption cases
			<p>In the past many commentators complained of a lack of efficiency and professionalism among CIABOC staff in many areas. But it cannot be denied that after a new DG was appointed in Feb 2015, a massive backlog was cleared in a short space of time, and credit must be given for this effort. 413 cases were charged in court between 2014-16, securing 54 convictions (12.83%). This is a decisive improvement on previous levels, but still low.</p> <p>In terms of professionalism, many plaintiffs still claim that CIABOC staff, as ex-police officers, seem to view complainants as potential suspects and this is seen as unprofessional. This is so especially for those who came in to complain about corruption in the educational sector, where the troubled issue of school admissions remains a perennial site of routine corruption. Also, there is a popular perception that anonymous complaints, despite being corroborated with many supporting documents, are not addressed by CIABOC. CIABOC is also perceived to move with extreme caution on complaints involving suspects with high political clout. Still, complainants interviewed by the research team agreed that even such suspects are being – though slowly – investigated.</p> <p>Sources: CIABOC's Annual Report (2015); interview with Convenor, Ceylon Teachers' Union (12/09/2016); Gen. Secy. Public Sector Nurses' Union (14/19/2016), Convenor, Voice Against Corruption (15/09/2016) and Head, History Department, Colombo University (11/10/2016).</p>
22. Average conviction rate of corruption cases investigated by ACA in the past three years	Above 75%	Between 50% - 75%	Below 50%
			<p>As mentioned above, while 413 cases were filed in the High Courts and the Magistrate's Courts over the past three years, only 54 resulted in convictions (see table 4). The rate of convictions actually dropped between 2014 to 2015 from 46.15% To 12.6%. This rate has not picked up remarkably over the first 10 months of 2016. CIABOC's ex-DG feels that legal officers are competent in drafting charges, but admits that they may lack advocacy skills in terms of defending their suit in court. While non-legal factors may of course, impact on the failure to secure convictions, CIABOC cannot hide behind these and must ensure that their legal teams – which now face numerically more cases and more complex cases - are up to standard.</p> <p>Source: CIABOC's website (<a href="http://www.ciaboc.gov.lk">www.ciaboc.gov.lk</a>) and Annual Report (2015); interview with CIABOC staff(10/11/2016).</p>



INDICATOR VALUES				
INDICATOR	HIGH	MODERATE	LOW	JUSTIFICATION OF SCORES
23. ACA's willingness to investigate influential persons for corruption without fear or favour	Considerable evidence of investigation of influential persons for corruption	Some evidence of investigation of influential persons for corruption	No evidence of investigation of influential persons for corruption	<p>This is a very complex and nuanced issue. Unlike in the past, under the present Commission CIABOC has taken steps to call many influential political figures of the previous govt – including a cabinet minister, defence secretary, 3 former heads of the Sri Lanka Navy - to make statements before it. It has also interrogated a serving minister. But critics outside the present govt accuse CIABOC of being part of a govt-sponsored witch hunt.</p> <p>The evidence to support such a claim, though is weak. Further, CIABOC has had to face sharp challenges in persuading such persons to come before it, including in some cases, resorting to legal action. While charges have been filed, over the past two years, it should be mentioned that there have been no convictions of influential persons as yet. But such cases frequently involve large sums of money and an intricate paper trail. The charges brought are correspondingly arduous to prove, necessitating extended prosecution processes.</p> <p>Sources: interview with ex-DG (10/11/2016); also Convenor, Ceylon Teachers' Union (12/9/2016) Gen. Secy, Public Sector Nurses' Union (14/19/2016); Convenor, Voice Against Corruption (15/09/2016) and Head, History Department, Colombo University (11/10/2016). Also interviews with legal professionals attached to the AG's Dept and BASL, opposition politicians and journalists.</p>
24. ACA's role in restitution, asset recovery, freezing and confiscation in the past 3 yrs	Very active role by the ACA	ACA plays a moderately active role	ACA is inactive	<p>CIABOC has secured approx 54 convictions over the past 3 years and all moneys and assets seized in these instance are channelled into the Consolidated Fund, along with penalties and fines charged by court. The role in asset recovery, however, is affected by its low rate of convictions</p> <p>Interview with CIABOC staff (10/11/2016).</p>
25. Does the ACA identify gender in compiling complaints and monitoring corruption trends	ACA has gender sensitive demographic information that allows it to monitor how corruption and its services affect women differently	ACA has gender sensitive demographic information that could allow it to monitor how corruption & its services affect women differently, but does not monitor these differences	ACA does not collect gender sensitive demographic information	<p>Gender-identification in corruption complaints is not maintained. This could be due to the large proportion of anonymous complaints lodged. Still, even if the complaints themselves are made anonymously, it should be possible for the reception officer to compile a record of the proportion of complainants who are female.</p> <p>Source: CAIBOC website: <a href="http://www.ciaboc.gov.lk/investigations/convictions">www.ciaboc.gov.lk/investigations/convictions</a>.</p>

#### 4. ACA's prevention, education and outreach functions (9 indicators)

INDICATOR VALUES		JUSTIFICATION OF SCORES		
INDICATOR	HIGH	MODERATE	LOW	
26. Average proportion of ACA's operating expenditure allocated to public outreach and prevention during the past 3 years	Above 1% of ACA's operating expenditure	Between 0.5% and 1% of ACA's operating expenditure	Below 0.5% of ACA's operating expenditure	According to CIABOC's Annual Report (2015) its total recurrent expenditure is Rs 245 million. Its expenditure on bribery prevention (Rs. 1,451,000) is however, taken from its budget for capital expenditure, which is something of a budgeting anomaly. The proportion of CIABOC's operating expenditure allocated to public outreach in 2015 is therefore 0.59%, which falls into the moderate category.  Source: CIABOC's Annual Report (2015), p 36.
27. ACA's corruption prevention initiatives during the past 3 years	Many corruption prevention initiatives	Some corruption prevention initiatives (average of 1-2 per year)	Few or no corruption prevention initiatives	CIABOC conducted an extended awareness programme at 14 different locations for state sector employees, including regional police academies, traffic police headquarters, Department of Prisons and District Secretariats. In December 2015 CIABOC launched an Action Plan titled 'Seven Steps to Zero Tolerance' itemizing seven preventive measures. Over the past two years, CIABOC began working with staff in 8 sectors (Immigration department, the passport office, the excise department, police department, identity card unit and local govt institutions and the education sector) pending cabinet approval of its Prevention Units. CIABOC also celebrated 'Anti-Corruption Day' in Dec 2015 by organizing an awareness campaign. CIABOC's ex-DG launched the anti-corruption website I-Paid-A-Bribe (IPAB) (which however, has not been very successful). It is presently planning to commemorate Anti-Corruption day with a seminar for public sector employees on the parameters of electoral corruption, ahead of planned local elections in 2017. Around 800 invitees at local, provincial and national levels are expected to attend.  Source: Interview with ex-DG, CIABOC on 02.11.2016; ED, Transparency International Sri Lanka (23/11/2016), CIABOC Annual Report (2015). Also interview with present DG, 28/11/16)
28. Number of reviews of organizational procedures, systems & capabilities conducted by ACA to prevent corruption during the past 3 years	Many reviews were conducted (relative to number of organizations in jurisdiction)	A substantial number of reviews were conducted (relative to number of organizations in jurisdiction)	Few or no reviews were conducted (relative to number of organizations in jurisdiction)	CIABOC proposed Prevention Unit to oversee the above-mentioned 'Seven steps to Zero Tolerance' Action Plan' in seven sectors (Immigration department, the passport office, the excise department, police department, identity card unit and local govt institutions and the education sector) are tasked with identifying possible loopholes where corruption could take place. They then recommend how these loopholes should be tightened. This work, however, is on-going.  Source: Interview with CIABOC staff on 10.11.2016; CIABOC Annual Report (2015), p 34.
29. Frequency of including corruption prevention recommendations in ACA's investigation reports during the past 3 yrs	frequently	sometimes	Not at all.	CIABOC states that recommendations are structured into the investigation reports. This information is not accessible due to CIABOC's confidentiality clause. It was not possible for the lead researcher to even access a report format.  Source: Interview with ex-DG (21/11/2016) and CIABOC staff (10/11/2016).

INDICATOR VALUES			
INDICATOR	HIGH	MODERATE	LOW
30. ACA's plan for prevention, education and outreach and its implementation	Comprehensive and clear plan which is implemented and accessible	A plan does exist, but is not implemented fully	There is no plan or only a weak one for prevention, education and outreach .
			<p>CIABOC's Action Plan 'Seven Steps to Zero Tolerance' includes campaigns in secondary schools aimed at changing attitudes to corruption, including introducing corruption awareness concepts into primary school syllabi.</p> <p>Much work has already been done in schools across the island. The Plan in fact envisages working with three demographic groups: school-going children, school-leavers and adults (primarily public sector employees). While working with school children involves the above-mentioned inputs into primary syllabi, YMAC or 'Youth Mobilizing Against Corruption' Groups will be started for school leavers, using a lecture and discussion format.</p> <p>Work with adults will involve a public dialogue on corruption through the print, electronic and social media. Most importantly, the Action Plan aims to work towards revising the law in keeping with the provisions of the 19th Amendment. However, it is too soon to gauge the effects of its implementation</p> <p>Source: Interview with ex-DG, CIABOC; CIABOC Annual Report (2015)</p>
31. ACA's collaboration with other stakeholders in prevention, education and outreach activities	High degree of collaboration with three or more joint projects	Some degree of collaboration with one or two joint projects	Little or no collaboration with other stakeholders
			<p>CIABOC collaborates with UNCAF/UNODC and is working on a self-assessment with UNODC. It also participated in the opening of the Colombo office of the ipaidabribelk website and worked with UNDP volunteers and members of CSOs including TISL during 2015-16, including celebrating Anti-Corruption Day in December 2015. CIABOC is working with the Department of Education to incorporate anti-corruption awareness into school syllabuses from the first grade upwards.</p> <p>CIABOC is presently working with the Presidential secretariat and Prime Minister's office to organize a seminar for public sector employees all levels (who be involved in conducting elections) on identifying electoral corruption ahead of key local elections in 2017, to coincide with Anti-Corruption Day on 9th December 2016.</p> <p>CIABOC Annual Report (2015) P 34.</p>
32. ACA's research and exploration of corruption risks, context and conditions	Extensive use of research to develop risk assessments and sectoral corruption profiles	Some degree of research to develop risk assessments and sectoral corruption profiles	Little or no discernible independent research carried out by the ACA
			<p>No independent research has been conducted by CIABOC. Its website displays research done by other organizations in the field of anti-corruption. But CIABOC does not have a budget for research and exploration of corruption risks, contexts and conditions.</p> <p>Source: CIABOC website (<a href="http://www.ciaboc.gov.lk">www.ciaboc.gov.lk</a>) and Annual Report (2015).</p>

INDICATOR VALUES				
INDICATOR	HIGH	MODERATE	LOW	JUSTIFICATION OF SCORES
	33. ACA's dissemination of corruption prevention information and use of campaigns	Extensive dissemination of corruption prevention and reliance on campaigns	Limited dissemination of corruption prevention in-formation and reliance on campaigns	
34. ACA's use of its website and social media for disseminating information on corruption prevention	Extensive use of its website and social media to spread corruption prevention information	Limited use of its website and social media to spread corruption prevention information	ACA does not have website and does not rely on social media to spread prevention information	<p>CIABOC's website has a hotline. Its 2015 Annual Report also has an attractive preface which uses images and narrative strategies to raise awareness. The website offers links to some relevant reports on corruption conducted by associated institutions, but CIABOC has not initiated research or public perception surveys on its own on issues of corruption and impunity. They do not use social media at present.</p> <p>Source: CIABOC website (<a href="http://www.ciaboc.gov.lk">www.ciaboc.gov.lk</a>); Annual Report 2015.</p>

5. ACA's cooperation with other organizations (5 indicators)

INDICATOR VALUES				
INDICATOR	HIGH	MODERATE	LOW	JUSTIFICATION OF SCORES
35. Government support (eg. AG's Dept, Director of Public Prosecutions) to ACA in prosecution of corruption cases	High level of support as reflected in absence of interference and average prosecution rate of above 75%	moderate level of support as reflected in some interference and average prosecution rate of 50% - 75%	Low level of support as reflected in substantial interference and average prosecution rate of below 50%	<p>CIABOC receives support from the AG's Dept both formally and informally. They retains around ten lawyers attached to the AG's Dept on a consultancy-basis, when their own legal personnel cannot cope with the workload. At present CIABOC has 26 legal officers.</p> <p>Average prosecution rates however, are not impressive: 137.3 per year between 2014-2016 which is a small proportion of the investigations completed.</p> <p>Though at present CIABOC states that there has been no interference from the present govt, prosecutions of influential persons remain low - due in some measure - to the complexity of arraignments sought. Further, in some instances, politicians out of power may still wield significant political clout in a situation in which the coalition-in-power remains a fragile collection of diverse groups. Thus even if the govt does not interfere, there may be pressure from other, illicit sources, which impact on prosecution rates.</p> <p>Source: CIABOC Annual Report; interview with Editor, Ravaya (05/10/2016); with ex-DG CIABOC (2/11/2016); Deputy Solicitor-General, AG's Dept (7/9/2016); Auditor General (21/09/2016) and Chairman, Police Commission (28/10/2016).</p>
36. Cooperation between ACA and other integrity agencies (including ACAs if there are multiple institutions)	High degree of cooperation between ACAs or between ACA and other integrity agencies	Limited cooperation between ACA and other integrity agencies	Conflict &/or lack of cooperation between ACA and other integrity agencies	<p>There are two other integrity agencies, i.e. the Financial Crimes Investigation Department (FCID) which is a unit within the Police Dept, and the Presidential Commission to Investigate and Inquire into Serious Acts of Fraud, Corruption and Abuse of Power, State Resources and Privileges (PRECIFAC). CIABOC points out that they share legal staff with PRECIFAC, which in practice ensures that cases handled by one agency are not duplicated in others. Further PRECIFAC constantly checks if CIABOC is following up on cases which PRECIFAC is working on. This is due to the fact that complainants tend to seek relief by applying to multiple agencies at the same time. The Auditor General also makes inputs when asked. While all such agencies are very willing, they also have their own staff shortage issues.</p> <p>However, there does not seem to be any real collaboration in investigations or any attempt to forge a unified strategy for dealing with 'difficult' cases - i.e. high profile persons or complicated cases, in order to secure a higher level of convictions. Some of the blame for this unsatisfactory situation perhaps lies at the feet of CIABOC's confidentiality clause.</p> <p>Source: Interview with former Secretary to PRECIFAC (10/09/2016); Chairman, Police Commission (2/11/2016) and former DG, CIABOC(10/11/2016).</p>

INDICATOR VALUES			
INDICATOR	HIGH	MODERATE	LOW
37. Cooperation between ACA and non-governmental organizations including CSOs and private companies	High degree of cooperation between ACA and other organizations including CSOs and private companies	Limited cooperation between ACA and other organizations	Conflict and/or lack cooperation between ACA and other organizations
38. ACA's participation in international networks	Very active with ACA participating in 3 or more networks	Active with ACA participating in 1 or 2 networks	ACA does not participate in any network
39. ACA's cooperation with ACAs in other countries	High degree of cooperation with joint projects and technical assistance with several ACAs in other countries	Limited cooperation in some areas with one or two ACAs in other countries	ACA does not participate in any network
			<p>Some trade unions and CSOs, especially those linked to leftwing political parties, complain that CIABOC's attitude towards the public is adversarial rather than supportive. They state that their complaints are not addressed. CIABOC does not seem to have a policy of contacting complainants and asking them to provide the background/context to their complaints. However, a few CSOs say they were treated with civility, and kept informed about the status of the investigation of their complaints.</p> <p>Source: interview with CSO leaders &amp; trade union leaders.</p> <p>The Commissioners, DG and senior members of staff participate often in UN, INGO-related and Transparency International-linked events.</p> <p>Source: Transparency Secretariat; interview with former DG, CIABOC.</p> <p>CIABOC has made contact with ACAs in a wide range of countries, including Asian countries such as China, Malaysia, India, Pakistan and Mongolia.</p> <p>However, there does not seem to be joint projects.</p> <p>Source: Interview with former DG, CIABOC (2/11/2016).</p>

## 6. ACA's accountability and oversight (4 indicators)

Some trade unions and CSOs, especially those linked to leftwing political parties, complain that CIABOC's attitude towards the public is adversarial rather than supportive. They state that their complaints are not addressed. CIABOC does not seem to have a policy of contacting complainants and asking them to provide the background/context to their complaints. However, a few CSOs say they were treated with civility, and kept informed about the status of the investigation of their complaints. Source: interview with CSO leaders & trade union leaders.
The Commissioners, DG and senior members of staff participate often in UN, INGO-related and Transparency International-linked events. Source: Transparency Secretariat; interview with ex-DG, CIABOC.
CIABOC has made contact with ACAs in a wide range of countries, including Asian countries such as China, Malaysia, India, Pakistan and Mongolia. However, there does not seem to be joint projects. Source: Interview with ex-DG, CIABOC (2/11/2016).

INDICATOR	INDICATOR VALUES			JUSTIFICATION OF SCORES
	HIGH	MODERATE	LOW	
40. Information provided in and accessibility of ACA's annual report and website	Comprehensive information on ACA is provided in annual report and website, submitted to parliament and easily accessible to the public	Limited information on ACA is provided in annual report and website; submitted to parliament but not easily accessible to the public	Submits annual report to government but is not available to the public	According to its enabling legislation (1994) CIABOC is required to produce an Annual Report detailing its activities, which is to be sent to the President, who then makes it available to Parliament. CIABOC downloaded its Annual Report for the first time onto its website in 2015. The Annual Report spelt out its mission and provided some basic information on its budget, number of investigations carried out over the past five years and staff vacancies. Hard copies are not easily available. Its website is freely accessible, but the information provided however, is limited to a hotline and email access to the DG, completed investigations and convictions. Despite many efforts, the research team was not able to access a hard copy of previous Annual Reports. Source: CIABOC Annual Report 2015; website (www.ciaboc.gov.lk)
41. ACA's oversight mechanisms	Oversight committees with active participation by MPs senior civil servants & prominent citizens	Oversight committees with members of parliament and /or senior civil servants as members	Accountable to Executive without any oversight committee	CIABOC is answerable to Parliament. They are expected to provide a Parliamentary Committee with progress reports every two months. In practice, these procedures have only just begun to fall into place, since the 19th Amendment to the Constitution which contains these oversight provisions was only passed in May 2015. The Committee has just recently come into place and have so far requested two reports from CIABOC. CIABOC is behindhand on the first but has compiled the second. They are working on this. Source: Interview with ex-DG CIABOC (10/11/2016); Editor, Ravaya (5/10/2016)see also Chris Kamalesan, Sunday Times, (15/5/2016), Hafsa Sabry, Sunday Leader (6.9.2015 & 31/07/2016).

INDICATOR VALUES				
INDICATOR	JUSTIFICATION OF SCORES			
	HIGH	MODERATE	LOW	
42. ACA's procedure for dealing with complaints against ACA personnel	Complaints against ACA personnel and investigated by an-other public agency to avoid conflict of interest and results of investigation and punishment imposed are publicised	Complaints against ACA personnel are investigated by its internal control unit but results of investigation and punishment are not publicised	Complaints against ACA personnel are ignored or not investigated without any explanation	<p>Here the record is very problematic. There is no procedure for investigation by another public agency. In fact, a complaint of bribery against the previous CIABOC Chairman (2010-15) was investigated by the accused himself and dismissed. As evidenced by the number of complaints of his conduct carried by the media, this issue generated much public outrage. This situation has changed with the implementing of the 19th Amendment, which stipulates a parliamentary committee to oversee the function of integrity bodies.</p> <p>Since CIABOC's investigators are drawn from the Police Department, they fall under the Police Ordinance. Therefore disciplinary hearings against them have to be conducted by the Police Human Resources Department. This is a very cumbersome mechanism. In any case, the punitive strategy used in the Police Department seems to involve transferring officers out rather than instituting judicial action against them, whatever the depth of the offense.</p> <p>Thus CIABOC cannot initiate action against its investigators, only recommend the need for it. The internal will and measures for investigating complaints against its own personnel are weak. In May 2016 the Sunday Times stated that CIABOC was probing the conduct of an inspector in the Investigations Department. A CIABOC spokesman was quoted as saying that an internal investigation was taking place. However, the results of this process was not publicised, which is unsatisfactory in an integrity unit such as CIABOC.</p> <p>Source: A.C. Visvalingam, Island, 30.07.2015.; Nirmala Kannagara; Sunday Leader 08.12.2013, Chris Kamalesan, Sunday Times, 15.05.2016, Hafsa Sabry, Sunday Leader, 06.09.2015 &amp; 31.08.2016.</p>
43. Outcome of complaints against ACA or its personnel in past 3 years	All valid complaints against ACA personnel result in punishment or other remedies, and outcome is publicised	Some valid complaints against ACA personnel result in punishment or other remedies, and outcome is publicised.	Complaints involving ACA personnel are ignored and not investigated.	<p>Despite a public outcry, no punitive action was attempted against the previous Chairman (2010-15) accused of accepting a bribe. The present Commissioners, however, enjoy a high reputation for integrity in legal circles and this contributes towards the process of consolidating the prestige of the institution.</p> <p>As mentioned in the previous indicator, on 15th May 2016, a newspaper stated that CIABOC was probing the conduct of an investigator (Inspector A.H.M. Gamini Abeyasinghe) accused of leaking confidential information. The outcome of this probe remains shrouded in mystery, and in general, CIABOC's internal procedures lack transparency. In October 2016, CIABOC's ex-DG was accused of misusing her powers of discretion, and being selective in filing charges. She tended her resignation on 17 Oct 2016.</p> <p>Source: Chris Kamalendran in Sunday Times (15/05/2016), Colombo Telegraph (27/9/2016); K Tennakoon in Ceylon Today (14/10/2016); also discussion with key informants including academics and legal professionals.</p>



## 7. Public perceptions of the ACA's performance (7 indicators)

INDICATOR	INDICATOR VALUES			JUSTIFICATION OF SCORES
	HIGH	MODERATE	LOW	
44. Public confidence that government has given the ACA the required powers and resources for curbing corruption	High level of confidence as reflected in survey findings (above 75%) and views of senior ACA personnel, CSO leaders and anti-corruption experts and journalists	Moderate level of confidence as reflected in survey findings (50%-75%) & views of senior ACA personnel, CSO leaders, anti-corruption experts and journalists	Low level of confidence as reflected in survey finding (below 50%) and views of senior ACA personnel, CSO leaders, anti-corruption experts and journalists	<p>The 2015 CPI ranks Sri Lanka 83 out of 154 states, notching only 37 points. This score has remained stable over the past 3 years. Transparency International's Global Corruption Barometer's (GCB) 2016 data on Sri Lanka, 43.9% of respondents thought that CIABOC was doing well or even very well. 26.1% were dissatisfied. 30% would not venture an opinion.</p> <p>Against this, a community perceptions survey on policing by the Asia Foundation in Jan 2016 (see table 6) shows a sharp shift over the past year: public views on corruption as a key factor affecting policing dropped from 24% in 2014 to 6% in 2015. Political interference as a factor also dropped from 56% to 39%. This implies that perceptions of corruption as well as political interference within public institutions such as the police has declined radically over 2015 (i.e. 100% -[6%+39%] = 55% of respondents have confidence in the political climate) This rates a 'moderate' score.</p> <p>Source: CIABOC's Annual Report (2015); Corruption Perception Index (2015), Transparency International, Berlin. interview with Convenor, Citizens Movement for Good Governance (7/9/2016); also Auditor General (21/9/2016), Chairman, COPE (28/10/2016); Convenor, Ceylon Teachers' Union (22/9/2016); General Secy, Public Sector Nurses' Union (14/19/2016), Convenor, Voice Against Corruption (15/9/2016); also interviews with criminal justice professionals attached to the AG's Dept and CSO leaders.</p>
45. Public confidence in ACA's adherence to due process, impartiality and fairness in using its powers	High level of confidence as reflected in survey finding (above 75%) and views of senior ACA personnel, CSO leaders, anti-corruption experts and journalists	Moderate level of confidence as reflected in survey findings (50% - 75%) and views of senior ACA personnel, CSO leaders, anti-corruption experts and journalists	Low level of confidence as reflected in survey findings (below 50%) and views of senior ACA personnel, CSO leaders, anti-corruption experts and journalists	<p>The issue of CIABOC's impartiality and adherence to due process and fairness remains problematic. On the one hand, there is close media interest in CIABOC's activities. On the other, a succession of senior political figures have expressed much consternation about CIABOC's failure to adhere to due process. In response to such a critical comment, in Oct 2016, the then-DG felt obliged to tender her resignation. The fact that she did, ironically, is testimony to the fact that she felt that she did adhere to due process and attempted to be impartial.</p> <p>However, these incessant charges and counter-charges should be seen against a fraught political culture which has emerged in the post-conflict situation. A near breakdown of law and order and the abject politicization of public institutions prevails. This has created enormous public anger against politicians and public servants who are perceived to be culpable. In such a context, the public continues to make demands that corrupt politicians should be brought to justice which may be unrealistic in the short term.</p> <p>Sources: Interviews with legal professionals, Nirmala Kannangara in Sunday leader (22/02/2014); Sunday Times (16/04/2015); Sunday Leader (31/8/2016), Island (31/8/2016); Daily Mirror (23/9/2016); Colombo Telegraph (27/9/2016); Sunday Leader (3/10/2016); Economy Next (18/10/2016).</p>

INDICATOR VALUES		JUSTIFICATION OF SCORES		
INDICATOR	HIGH	MODERATE	LOW	
46. Confidence in ACA's adherence to due process, impartiality and fairness in using its powers, among persons who had direct contact with the ACA	High level of confidence as reflected in survey findings (above 75%) and views of senior ACA personnel, CSO leaders, journalists and, if possible persons with direct contact with the ACA	Moderate level of confidence as reflected in survey findings (50%-75%) and views of senior ACA personnel, CSO leaders, journalists and, if possible, persons with direct contact with the ACA	Low level of confidence as reflected in survey findings (below 50%) and views of senior ACA personnel, CSO leaders, journalists and, if possible persons with direct contact with the ACA	<p>Persons who have had direct contact with CIABOC fall into two main categories: (a) ordinary citizens and (b) members of CSOs, TUs and political activists who represent organizations. The second category in particular, have filed complaints on massive fraud of gigantic dimensions which the CIABOC, understandably enough in the present political climate, has been somewhat hesitant in investigating. This has led to polarized responses, and those who had high expectations of investigations into massive fraud being fast-tracked are critical about CIABOC's performance.</p> <p>Ordinary citizens on their part tend to be intimidated by the somewhat adversarial approach assumed by CIABOC's Receiving Officers. They complain that these officers interrogate them as if they were the offenders. It should be noted that CIABOC's investigators are drawn from the Police Dept, which does not have record of being people-friendly. For many complainants, such an adversarial response is seen as a lack of impartiality in that CIABOC's staff seem to respond better to higher status complainants or those with an organization backing them, which enhances their status.</p> <p>Both categories of complainants agree that many anonymous complaints may be motivated by petty revenge. However, they point out that CIABOC's receiving officers cannot always assume this, and need to treat every complainant with greater respect and assume a more professional stance.</p> <p>Source: interview with Chairman, COPE, (20/10/2016); Convenor, Ceylon Teachers' Union (22/09/2016); Gen. Secy. Public Sector Nurses' Union (14./9/2016), Convenor, Voice Against Corruption (15/9/2016); Convenor, CaFFE (13/9/2016) and Head, History Dept, Colombo University (11/10/2016); interviews with criminal justice professionals attached to the AG's office and BASL, opposition politicians and journalists. See also A.C. Visvalingam in Island (20/6/2015); K Tennakoon in Ceylon Today (14/10/2016).</p>
47. Confidence in the ACA's dignified and respectful treatment of persons under investigation	High level of effectiveness as reflected in the views of senior ACA personnel, CSO leaders, journalists and persons subject to investigation, if possible	Moderate level of confidence as reflected in the views of senior ACA personnel, CSO leaders, journalists and persons subject to investigation, if possible	Low level of confidence as reflected in views of senior ACA personnel, CSO leaders, journalists and persons subject to investigation, if possible	<p>The research team were unable to access such persons. At the same time, if complainants to CIABOC are intimidated by the treatment they received, it is hard to imagine that suspects – at least those from lower socioeconomic backgrounds – would fare much better. Some political figures investigated have complained of their treatment to the media. But these are influential personages who may very quick to take offense at the way they're treated when out of power. It was in fact the allegedly disrespectful conduct of the interrogation of a senior cabinet minister (for a relatively minor charge) which set into motion the train of events which led to the resignation of the previous DG on 17th October 2016.</p> <p>While CIABOC staff agree that the Sri Lankan Police do not have a record of treating suspects (without political contacts) with any degree of dignity, they vehemently deny that they themselves treat suspects in any way that is inappropriate. This anxiety to convince the research team and the public at large, implies that the criticism received over the past two years on this regard has had an impact on CIABOC staff across the board.</p> <p>Source: Sunday Times (26/4/2015); Island, editorial (15/09/2016); Ceylon Today (14/10/2016); Keerthi Tennekoon in Colombo Telegraph (19/10/2016). Also interviews CSO leaders, journalists and academics.</p>

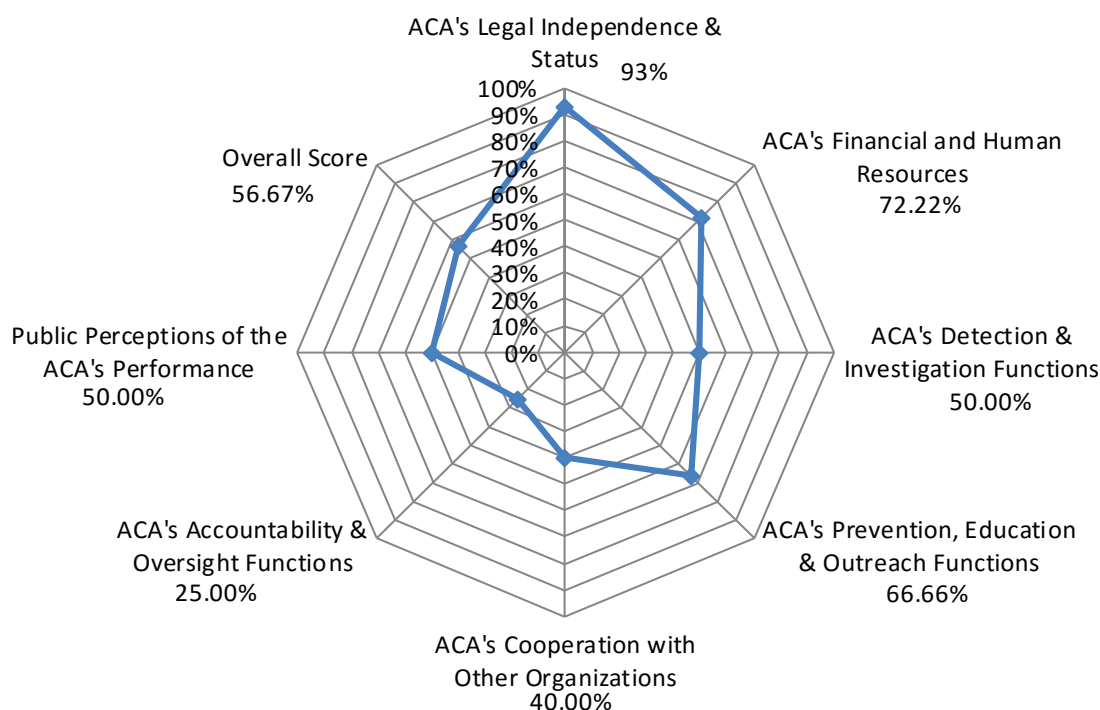
INDICATOR VALUES				
INDICATOR	HIGH	MODERATE	LOW	JUSTIFICATION OF SCORES
				48. Public perception of ACA's effectiveness in corruption-control
49. Perceptions of ACA's effectiveness in corruption –control among persons with direct contact with ACA	High level of effectiveness as reflected in survey findings (above 75%) and views of senior ACA personnel, anti-corruption experts and journalists	Moderate level of effectiveness as reflected in survey findings (50%-75%) and views of CSO leaders, anti-corruption experts and journalists	Low level of effectiveness as reflected in survey findings (below 50%) and views of CSO leaders, anti-corruption experts and journalists	Among those who had direct contact with CIABOC, as mentioned above, members of groups who had actively engaged in overturning the previous govt expressed dissatisfaction. <sup>127</sup> This was expressed in their interviews with the research team, and in the numerous letters to newspapers and social media. This is perhaps due to their high – and perhaps unrealistic - expectations of CIABOC.  However, even among this category of persons, there is general agreement that the level of activity has risen enormously in comparison to previous commissions.  Source: Source: interviews with trade unionists, CSO leaders and journalists; A.C. Visvalingam in Island (20/06/2015); K Tennakoon in Ceylon Today (14/10/2016).
50. Perceptions of ACA's effectiveness in dealing with complaints among female citizens who had direct contact with ACA	High level of effectiveness as reflected in survey findings (above 75%) and views of CSO leaders, anti-corruption experts, journalists and, if possible, women who had direct contact with ACA.	moderate level of effectiveness as reflected in survey findings (50% - 75%) and views of CSO leaders, anti-corruption experts, journalists and, if possible, women who had direct contact with ACA.	Low level of effectiveness as reflected in survey findings & views of CSO leaders, anticorruption experts, journalists and, if possible, women who had direct contact with ACA.	The research team was not able to access any female complainants. However, the Sri Lankan data on the 2016 GCB (forthcoming) reveals that 42.8% of female respondents thought that CIABOC was doing well or very well in fighting corruption, while 24.1% were dissatisfied.  Further, as mentioned above, among raids into complaints of bribery and corruption cited on CIABOC's website between 2012-16, there are five instances of female plaintiffs who cite demands for sexual gratification in lieu of money, for political or administrative favours. Of these, two such charges, have resulted in convictions, with sentences including 2 yrs rigorous imprisonment suspended for 10 years. The first was initiated in August 2012, but the indictment only took place in March 2016. The other was made in September 2013, and the perpetrator was sentenced in January 2016. This amounts to a 40% conviction rate, which is significantly higher than that for other convictions.  Clearly then, while female complainants have brought charges against demands for sexual gratification, it is only in the past two years that these have borne fruit in the courts. This indicates that the present CIABOC staff takes complaints of demands for sexual gratification seriously enough to see women who come forwards with complaints all the way through to court. This is an impressive achievement in a conservative Asian society.  Source: CIABOC website (www.ciaboc.gov.lk); Global Corruption Barometer 2016 (forthcoming).

127. 90% of key informants had direct experience of dealing with CIABOC.

# 4. CONCLUSIONS AND RECOMMENDATIONS

CIABOC strives to function in a post-conflict society in which public institutions are frail. Public administration has been subjected to intense politicization. A culture of irregular payments has evolved, in which the public remains ambiguous about what in fact constitutes the parameters of corruption. While large-scale corruption spawns much public outrage, paying bribes for minor public services does not bring moral censure upon the giver. Thus the offense is always committed by one's opponents, and never by one's self. The self remains in denial about its complicity in corruption. This creates a situation where the boundary between public service and administrative favour is blurred and unclear to both the public as well as the public servant. In the post-2015 political climate, public institutions are struggling to recover a measure of autonomy.

**Figure 1 - CIABOC'S SCORE BY DIMENSION**



The new government initially came to power on an anti-graft platform. But they now face rebellion by their own MPs and ministers, who wish to recompense their electoral supporters by gifting them with positions in the public sector. Here again, the culture intervenes. There is no real consensus that politicians giving jobs to their supporters is wrong; only that politicians you have no access to are somehow wrong to provide their supporters with employment in the state sector. This revives the politicization process. Further, politicians of all parties and at all levels national, provincial and local have been accused of receiving commissions from entrepreneurs and businessmen who obtain contracts for public infrastructure building projects.<sup>128</sup> The cycle seems endemic.

In this climate, CIABOC's efforts may seem like a drop in the ocean. Yet CIABOC's staff are themselves encouraged by the extent to which their collective performance has improved over the past two years. Morale is up and a high level of staff commitment seems to prevail. This should be appreciated by critics rather than dismissed. At the same time this level of performance – while undoubtedly improved – still does not match the expectations of these same critics who invested so much effort in order to bring

<sup>128</sup> This is due to many reasons. Though presently, a UNP-UPFA coalition governs at the national level, at the provincial and local levels, UPFA politicians linked to the previous regime remain in power, pending provincial and local elections delayed by delimitation issues. A number of such local politicians as well as national-level figures in the previous UPFA govt and leaders of minor parties within the UPFA have been accused of gross

about regime change. While they are firmly against 'witch hunts' taking place, they did expect that legal measures would be adopted against wrongdoers. CIABOC, on their part, appear to feel that such critiques do not appreciate the complexities of producing evidence against some kinds of white collar crime which could stand in court.

Against this, CIABOC themselves, the media and even some government ministers claim that files of completed investigations sent to the Attorney General are still stockpiled on his desk. The AG's Department cites lack of court time. Either way, it cannot be denied that the rate of convictions is low. But CIABOC's senior executives accept that its legal officers - used to dealing with routine misuse of bureaucratic privileges by low-level public employees such as grama sevakas, school teachers/principals and forestry officers - lack advocacy skills to defend more nuanced and intricate cases in court.

Thus though there is an indicator addressing the rate of convictions, the assessment tool itself lacks a dimension dedicated to the Anti-Corruption Agency's legal competence. Since this is a key aspect of its ability to play its role in society successfully this is an important hiatus in the scheme.

While CIABOC's code of confidentiality does protect the interests of suspects who are subsequently found to be innocent, it also contributes towards creating a culture of secrecy. A system of gate-keeping appears to have evolved where lower-level staff guard access to senior officials such as the Commissioners and Director-General, who - despite the avowals on CIABOC's website - are not really accessible to the public. This could be for their own protection, in a situation where politically sensitive investigations are taking place. However, it also creates a situation where the Commissioners themselves seem reluctant to engage with potential critics, including other stakeholders on the anti-corruption front. Since their institutional position is tenured, this lack of openness in dealing with the public is indefensible.

This tendency extends to issues of institutional accountability. While it is valid that the position of the Commissioners should be tenured, this cannot extend to the rest of the staff, in the face of complaints of inappropriate conduct or misuse of funds. The drafting of internal inquiry procedures is required.

Finally, the failure to engage in qualitative research about and understand the context of corruption loopholes is a significant omission. Research into the context of corruption will equip CIABOC staff to grasp the context in which loophole for corruption tend to surface. It will help investigators to understand how a culture of impunity emerges in certain situation, which would help them deal with specific actors who are granted this kind of impunity.

## RECOMMENDATIONS

### **Legal independence and status**

1. The procedure assumed by the Constitutional Council for the appointment of Commissioners – i.e. calling for nominations from the public and subjecting nominees to an interview process – should be mandated in order to retain transparency.

### **Human and financial resources**

2. CIABOC should proceed to recruit a special unit of approx 8 – 10 staff who are equipped to deal with white collar crime – including accounting and criminal justice professionals and qualitative social science researchers – and provide recurrent training which would help them stay abreast of best practices in investigation.<sup>129</sup>

3. CIABOC, as a public sector organization of extraordinary functions, should be freed from ties to the Police department and the Public Services Commission, and be allowed to recruit its own personnel and formulate its own salary structures.

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129. A cabinet draft has already been submitted for this cadre, but its composition should include higher quality staff.

### **Detection and Investigation Function**

4. Initially recruit a 3 – 4 member experienced legal team led by selected prosecutors with a proven record in the Attorney General's Department, to prosecute charges in court relating to complicated cases or cases relating to grand corruption, until such time as CIABOC's own team of legal officers are of such standard as to function independently of the AG' Dept. CIABOC should also be able to and set in place a system of bonuses if convictions are secured.

5. Establish another high court complex preferably cited in Colombo, where bribery and corruption cases can be heard under a trial-at-bar.

6. Create an official forum for the exchange of ideas with FCID and PRECIFAC, the Financial Intelligence Unit of the Central Bank, the Auditor General and if relevant, the CID for a coordinated and productive approach to complex and large-scale corruption and money laundering cases.

7. Should retain a separate register to identify the gender of complainants

### **Prevention, education and outreach functions**

8. Should seek donor assistance to engage in qualitative research into corruption risks, contexts and conditions in Sri Lankan society.

### **Accountability and oversight functions**

9. Produce a high-quality Annual Report according to standard report-writing criteria

10. Provide the CC with progress reports very two months.

11. A preliminary inquiry procedure should be devised by the Commissioners/DG to be deployed in the event of complaints against CIABOC staff. The procedure should ascertain the accuracy of the sequence of events cited in the complaint, and then expeditiously arrange a disciplinary hearing with the Police HR Department, at which either a Commissioner or DG also participates.

12. In the event of evidence of wrong-doing by CIABOC staff, disciplinary action must be taken and publicized on CIABOC's website.

13. CIABOC's confidentiality clause should be re-defined to cover only information pertaining to on-going investigations and court cases. There should be provision for senior CIABOC investigative staff to profitably share ideas on how to approach politically-sensitive or complicated cases strategically through a forum with the auditor general and other integrity bodies.

# ANNEX 1: BACKGROUND TO THE PROJECT

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Transparency International believes that Anti-Corruption Agencies (ACAs) as public institutions tasked with combating corruption, must be transparent, accessible and accountable to citizens. They must operate with the utmost integrity, maintain a reputation of objectivity and professionalism and demonstrate effectiveness in their duties. Transparency International has identified ACAs as key partners in the fight against corruption and plans to work in constructive collaboration with governments who are ready to invest in improving their anti-corruption effectiveness by building strong oversight and enforcement mechanisms.

Transparency International's initiative aimed at strengthening anti-corruption agencies combines biennial assessments of ACAs with sustained engagement, dialogue and advocacy at both national and regional levels. A robust assessment tool was developed over a period of two years in consultation with numerous experts and practitioners around the world. In mid-2013, Transparency International convened an experts meeting in Kuala Lumpur to explore the possibility of developing an ACA assessment tool. After receiving encouraging feedback and useful input, Transparency International commissioned a background review and draft framework by anti-corruption specialist, Alan Doig. The concept received further interest and backing from ACAs in the Asia and Pacific region during the 18th and 19th Steering Group Meeting of the ADB/OECD Anti-Corruption Initiative for Asia-Pacific in 2013 and 2014.

In 2014, Transparency International commissioned anti-corruption expert, Dr Jon Quah to further refine the framework, producing a set of indicators incorporating elements of TI's National Integrity Systems assessment methodology and other relevant tools and principles. In April 2015, Transparency International organized a Focus Group Discussion in Bangkok, bringing together practitioners, researchers and ACAs to scrutinize the indicator framework and approach. Participants subsequently formed an Advisory Group to guide the finalization of the tool.

The tool was piloted in Bhutan in 2015 and lessons learnt around the research framework, process and approach were captured and used to finalize the methodology in consultation with the Advisory Group. At present the initiative is being implemented in a number of countries in the Asia Pacific region.

# ANNEX 2: INTERVIEWEES

Persons interviewed during assessment of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC), 15 August – 30 November 2016.

ORGANIZATION/DEPARTMENT/PARTY	POSITION/DESIGNATION
1. Anti-Corruption Front (Dushana Virodhi Peramuna)	Executive Director
2. Attorney General's Department	Deputy Solicitor General
3. Auditor General's Department	Auditor General
4. Bar Association of Sri Lanka	Member
5. Bar Association of Sri Lanka	Member
6. Campaign for Free and Fair Elections	Convener, (CAFFE)
7. Ceylon Teacher's Union (Lanka Guru Sangamaya)	General Secretary
8. Citizen's Movement for Good Governance(CIMOGG)	President
9. Committee on Parliamentary Enterprise (COPE)	Chairman
10. Police Commission	Chairman
11. PRECIFAC	Ex-Secretary to Commission
12. Presidential Secretariat	Media Coordinator
13. Public Sector Nurse's Union (Rajaye Heda Sangamaya)	General Secretary
14. Ravaya	Editor
15. Voice Against Corruption (Dushana Virodhi Handa)	Convener
16. Voice Against Corruption (Dushana Virodhi Handa)	Member
17. United National Party	Deputy Minister/Ministry of Immigration & Emigration
18. University of Colombo	Head/Department of History
19. United Nations Development Fund (UNDP)	Resident Coordinator
20. United Nations Development Fund (UNDP)	Economic Adviser



# ANNEX 3: STAKEHOLDERS CONSULTED

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## Persons involved in consultations on assessment findings – Colombo, 10.11.2016

POSITION	ORGANIZATION
Director-General (15.2.2015 - 17.11.2016)	CIABOC
Director-General (appointed 1.12.2016)	CIABOC
Assistant Director/Investigations	CIABOC
Legal Officer	CIABOC
Lead Researcher	Independent consultant
Research Assistant	TISL
Project Coordinator	TISL

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