

Commission to Investigate Allegations
of Bribery or Corruption - CIABOC

PROGRESS OF CIABOC AND THE CHALLENGES FACED BY THE COMMISSION.

Report 2017-2018

This report highlights the key initiatives taken by the Commission to Investigate Allegations of Bribery and Corruption (CIABOC) within time period of 1st January 2018 – 30th September 2018. Furthermore, it notes the challenges and obstacles faced by the Commission in the delivery of its services.

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A. RESPONSIBILITIES OF THE BRIBERY COMMISSION

The role of CIABOC is diverse in nature. It is a role which transcends the mere investigation and prosecution of a crime.

Accordingly, the recruitment of specialist investigators, establishment of a Prevention Division, introduction of a preventive mechanism for public sector institutions, creating an ideological change within the minds of the people towards bribery, periodic reporting to the United Nations and the European Union can be cited as activities carried out by CIABOC in future.

Our main aim is not to prosecute perpetrators to the satisfaction of the public, but to conduct prosecutions in the right manner and procedure. As such, in 2017, 2018 CIABOC has been able to convict 57 and 59 perpetrators respectively.

B. ACHIEVEMENTS OF THE COMMISSION

In fulfilling the duties vested under the Commission, CIABOC has accrued many achievements. This is a signification of the expanding scope of the Commission

01. NUMBER OF CONVICTIONS

- a. Commission has more focus not merely on filing cases but to successfully conduct prosecution in Court. The reason being the best very number of convictions had been
- b. Recorded 57 convictions out of concluded 89 trials in the year 2017. This conviction rate is the highest in the entire history of CIABOC.
- c. So far, 59 convictions have been made in the year of 2018 which is a milestone achievement of the Commission.
- d. A total number of 35 cases were filed in Courts within the period of 1st of January to the 30th of September 2018. This includes high ranking officials of the state, more information of which is annexed to this report.
- e. A total number of 333 cases have been filed by the 15th of September 2018 of which 106 cases have been filed before the Magistrate Court and 227 cases have been filed before the High Court pending trial.

02. FILING OF CASES

One of the main accusations leveled against CIABOC is that it continues to file cases against lower ranking officials.

However when assessing the last two years, cases have been filed against the former Attorney General, 3 former ministers, Secretary State Printing Corporation, director of Sri Lanka Rupavahini Corporation, Secretary of Laksala, Managing Director of Laksala, Director of Finance Laksala, Court of Appeal Judge, Secretary of Avant Guard, former Brigadier of the Army, Director of Customs, Superintendent of Customs, former Mayor.

Secretary of Avant Guard and the Former Brigadier have been charged for receiving and offering bribes. This it is a unique case.

03. BRIBERY RAIDS

- a. 57 successful raids were made in the year 2017.
- b. A total number of 30 successful raids were conducted by CIABOC by 2018.10.10.
- c. One of the landmark raids was the arrest of President's Chief of Staff and the Chairman of Timber Corporation. Chief of staff is the highest ranking public servant that has been arrested since the Bribery Department commenced in the year 1958. Additionally, former Import Export Controller, Secretary National Livestock Development Board, Senior Assessor, Electricity Superintendent are also among such high ranking officials.
- d. This stands as evidence of the integrity and transparency of the Commission, where as in the colloquial parlance, CIABOC serves justice even when high-ranking officials are concerned. As such, it is expected in the future that, irrespective of what the professional background of the captain steering the great ship that is CIABOC, he or she would have such an environment to carry out activities without any obstacles.

04. PERCEPTION RANKING

- a. Transparency International has elevated Sri Lanka from 96th rank to the 91st rank in the Perception Index relation to international anti-corruption. CIABOC is planning to increase our ranking even further next year.

05. UNCAC OBLIGATIONS

- a. Sri Lanka became a signatory to the United Nations Convention Against Corruption (UNCAC) on the 15th of March 2004 and recognized the same on the 31st of March 2004. By virtue of the Article 5 (02) of the Convention, Sri Lanka is to comply with the Convention by formulating the necessary legal mechanisms within its domestic jurisdiction. As such, Sri Lanka will be periodically reviewed by the international institute. As such, for the enforcement of UNCAC obligations, CIABOC has been recognized as the focal point.
- b. With regards to the implementation of UNCAC, Sri Lanka is answerable to several international bodies on a periodic basis

- c. Sri Lanka completed First Review Cycle under the UNCAC regime. This dealt with Chapter 3 (Criminalization) and Chapter 4 (International Cooperation) of United Nation Convention against Corruption.
- d. Sri Lanka also completed Second review cycle Chapter 2 (Prevention) and Chapter 5 (Asset Recovery).
- e. UNODC released the country report to the international community at the International Review Group (IRG) that was held on the 1st week of June 2018.
- f. Presently, the said report is published on the UNODC website for the benefit of the international community.
- g. Sri Lanka was an observer under the Convention, where it participated alongside Guinea in the second review cycle of Botswana, where a legal officer of the Commission participated as a specialist in the process.

06. RECOGNITION BY UNODC

- a. UNODC has recognized CIABOC as one of the fast-growing anti-corruption agencies in the region.
- b. Therefore, Sri Lanka was granted the opportunity to hold the Global Conference of Experts, which was successfully concluded from 25th – 27th July 2018, with the presence of His Excellency the President Maithripala Sirisena as the chief guest.
- c. A large number of international experts on the subject took part in the event, which can be marked as a victory to CIABOC.

07. NATIONAL ACTION PLAN

- a. Several international agencies have repeatedly queried the inability of the government to prepare a National Action Plan with regards to anti-corruption
- b. UNODC, European Union and Open Government Partnerships are some of the institutions that have raised their concerns
- c. In particular UNODC has stressed that it is obligated under the UNCAC provisions to prepare a National Action Plan.
- d. With required to the obligations under UNCAC, even the European Union has raised concerns when monitoring GSP+.
- e. Thus, Cabinet of Ministers has given an approval to prepare a National Action Plan and entrusted the responsibility to CIABOC.

- f. This has to be done with the support of the Presidential Secretariat and other relevant ministries concerned.
- g. Several steps have been already taken in this regard. Following are the key steps that have been taken:
 - ii. Preliminary meeting was held under the chairmanship of secretary to the President
 - iii. All the secretaries and the heads of some of the key departments were summoned and explained the process.
 - iv. A media conference was held and sought their support.
 - v. On 15th of May 2018, Director Budget has allocated 16 Million to the project in addition USAID also giving their support to make this venture a successful one.
 - vi. World renowned expert a retired officer form World Bank has been enlisted to support the drafting process. In addition local consultant was also enlisted to assist the foreign expert.
 - vii. Four consultations were held at the Parliamentary oversight committee, several ministers, members of parliament and senior public officials and heads of department took part in the deliberation and gave their proposals that needed to be included in the proposed action plan.
 - viii. It has been decided to obtain the views and proposals of various stakeholders including the civil servant, general public, civil societies
 - ix. Over 30 such consultations in each district has been planned. As such state sector, private sector, civil societies, media, actors, youth and many other categories of people were consulted in order to gather a comprehensive understanding.
 - x. One page newspaper advertisements were published in all three languages calling proposals from the people.
 - xi. As of now, a draft framework of the National Action Plan has been formulated, where after gaining the required approval, the document is planned to be published on the 9th of December 2018.

08. OPEN GOVERNMENT PARTNERSHIP

- a. Under the GOP, CIABOC has been an active role player of the initiatives related to National Action plan.

09. GSP+ TAX CONCESSION

- a. In order to retain the massively important GSP+ tax concession in Sri Lanka, CIABOC hand in hand with the Foreign Ministry has carried out many tasks.
- b. This is mainly due to the fact that retention of such concessions depends heavily on the anti-corruption regime of a country.
- c. The presentation made by the Director General of CIABOC at the European Union Meeting (Brussels, Belgium), highlighting the efforts of the Commission was a contributive factor to convince the Union in retaining the concession.

10. RECRUITMENT OF FORENSIC INVESTIGATORS

- a. CIABOC has never had a single expert in their entire history. Thus after going through the government machinery approval has been obtained to recruit 200 experts in the fields of Accountancy, Auditing, Financial Analysis, Digital Forensic, Bonds, Securities, Banking, International Contracts, Procurement, Construction, Engineering, Management and Public Administration.
- b. The relevant advertisement was gazetted on the 1st of June 2018. Applications closed by the 1st of August 2018, where over 8000 applications were received. At the conclusion of a written examination, steps will be taken to recruit potential candidates.

11. RECRUITMENT OF PREVENTION OFFICERS

- a. Though Article 156 of the 19th Amendment stipulated that Prevention Mechanism would be implemented, the country has never had any prevention unit. Thus, after going through the government machinery approval has been obtained to set up a Prevention Unit and to recruit 50 Prevention Officers.
- b. The Commission received over 5000 applications and will take the necessary steps for their recruitment.
- c. CIABOC receiving a multitude of applications for these recruitments is an apt example of the confidence the public has with the Commission.

12. AMENDMENTS TO THE LAW

- a. Laws pertaining to bribery and corruption and assets have not been amended since 1994. After making a study, proposals were made to cabinet through his Excellency the President to amend the relevant laws. Accordingly Cabinet has approved to make amendments and it has been given to the legal draftsman to draft the relevant laws.
- b. As such the Bribery Act, the Declaration of Assets and liabilities Act, CIABOC Act, Commission of Inquiries Act will be amended.
- c. As such, an important amendment to section 22 of the Bribery Act was made, where now the High Courts are empowered to hear corruption cases. Earlier it was only confined to the Magistrates Court.
- d. Additionally the amendments made to the Judicature Act in collaboration with other institutes to establish a permanent trial at bar to hear serious financial crimes can be noted as an achievement of our nation in its pursuit of justice.
- e. Following are the laws that will be amended

I. BRIBERY ACT

Among other following issues should be considered

- a. Private sector Bribery
- b. Gift rules
- c. Conflict of interest rule
- d. Foreign officials bribery
- e. How to investigate and prosecute money laundering offences and offences relating to victim and witnesses

II. PRESIDENTIAL COMMISSION OF INQUIRIES ACT

- a. CIABOC has no power to consider the evidentiary material collected by “Presidential Commission of Inquiry” (Commission of inquiry). It has to re summon the witnesses who gave evidence before the commission. There are over 30 such commission reports in CIABOC and re summoning these witnesses would consume a lot of time.
- b. Presently it has been placed before the Parliament. This has been approved by the Sectoral Oversight Committee on Legal Affairs the 2018. 07.19 and awaits the second Reading.

III. DECLARATION OF ASSETS LAW

1. Experts from World Bank UN ODC, Slovenia and Indonesia were brought to Colombo and held in depth discussion along with Sri Lankan stakeholders to find out the gaps in our Declaration of Assets law
2. Their proposals have been prepared.
3. The proposals were further deliberated by a team of World Bank experts from 17th June 2018 to 19th June 2018, where newer recommendations, in keeping with international trends have been presented. As such, a policy framework was formulated with the collaboration of the Department of Legal Draftsman and other local specialists.
4. Additionally, through deliberations with the Ministry of Telecommunication, Digital Infrastructure and the Secretary of the Foreign Employment Bureau, plans have been made to offer the Asset Declaration Form in an online platform.
5. Some of the suggested recommendations are as follows:
 - Expand the scope of who should declare assets and liabilities under the law.
 - Inclusion of modern forms of assets and liabilities under the Asset Form.
 - Instead of the existing annual declaration of assets, the introduction of a declaration at the point of retirement and two years after retirement. Additionally, if there is a record of a considerable increase of assets within a year, declaration of such increase to be mandatorily done within 15 days.
 - To establish a centralized body to receive, analyze, follow up on the declared assets.
 - Increase the penalties of offences in line with modern day developments
6. Thereafter this will be placed before the Cabinet to consider and to make suggestions

IV. CIABOC ACT

1. Joint investigations with other agencies
2. permission to seek AG's legal opinion
3. Whistleblowers protection
4. Prevention procedures

13. PREVENTION

- a. Sri Lanka has never had any formal Bribery and corruption prevention mechanism. Countries like Hong Kong, Malaysia, Bhutan and even Korea give top priority to the preventive regime. They do not rely solely on investigation and prosecution. They work by the motto "prevention is thousand times better than investigation and prosecution".
- b. However, there is no general awareness about the importance of prevention in this country. Thus it was decided to strengthen the prevention mechanism and thereby to introduce integrity strategies to the public sector. With these objectives in mind, various steps were taken within the last few months
 - i. The chairman of the Malaysian Integrity Institute visited Sri Lanka and held three conferences with senior public servants and officers of the CIABOC
 - ii. A delegation led by Secretary to the President that comprised of the Attorney General, one of the Commissioners of CIABOC, Director General of CIABOC Secretaries to the Ministry of Public Administration and Local Government, and Additional Solicitor General visited Kingdom of Bhutan and had a dialogue with Prime minister, Chief Justice, Speaker, Attorney General and many members of the anti-corruption agency in order to study the best practices adopted in the public sector to enhance integrity
 - iii. A CIABOC delegation and a legal draftsman visited Hong Kong anti-corruption agencies and learned about the procedures, practices and integrity Action Plan.
 - iv. Experts from the Island of Mauritius visited Sri Lankan and deliberated about their highly successful prevention plans.

14. INTEGRITY PLAN

- a. Concept Papers for a National Integrity Plan and a Corruption Prevention Plan has been presented to the Presidential Secretariat office to be placed for Cabinet approval.

15. EDUCATION

- a. It has been established worldwide that key to the success in the anti-corruption endeavor is the changing of the attitudes of the entire society. This would include children and senior citizens alike.
- b. Following steps were taken to enhance the objectives of this philosophy:
 - i. Several rounds of discussions were held with the education authorities to incorporate values n anti-corruption to the curricula of the schools.
 - ii. Several awareness programs were conducted exclusively for children.
 - iii. More than 100 awareness programs were conducted for the adults all over the country. These included public servants, police officers, member of the civil society etc.
 - iv. So far, CIABOC has not undertaken a wide-scale media campaign on raising awareness within the public regarding bribery and corruption. CIABOC has already taken the necessary steps in this regard. Video footage has already been designed to this effect.

16. TRAINING

- a. Plans are underway to incorporate presentations and lectures on anti-corruption to the induction and service training programs of the public servants.
- b. In order to strengthen the capacity of the investigators and the prosecutors, several foreign and local training programs were organized. Those are as follows:
 - i. 45 investigators and prosecutors were sent to Malaysian Academy on Anti-Corruption for training
 - ii. Several officers were sent to Singapore, Korea and China for training
 - iii. Plan are afoot to send senior public servants, investigators and prosecutors to the Hong Kong Anti-Corruption Commission for training. The Commission has already agreed for our proposal.

- iv. Several local programs were conducted with the support of the UNODC, Department of Justice and Attorney General's Department
- v. Investigation Manuals and Prosecuting Guidelines have been prepared so that officials of CIABOC will be professionally equipped to handle any situation that they may come across in the discharge of their duties.

17. LAUNCHING OF WEBSITE

- a) There was a long felt need to appraise the general public of the actions taken by the Commission. As such, a novel and effective website was launched in the month December 2017. Through which general public are updated about the current affairs, concluded cases and filed cases.
- b) However strict secrecy is maintained with regards to ongoing investigations.
- c) Within a mere 7 months, CIABOC's website was awarded a Merit award in the recently concluded competition organized by lk.domain which chose the best websites among the thousands of websites in Sri Lanka. Our website has been successful in capturing the attention of the public, where its accessibility has been improved by providing platforms accessible for differently abled persons. Additionally, 8 modes of complaints have been introduced to the public.

C. CHALLENGES

In carrying out the task of strengthening anti-corruption work in Sri Lanka, CIABOC has confronted many a challenges. Which can be categorized as follows:

01. LACK OF OFFICE SPACE AND PROPER BUILDING WITH FACILITIES.

1. The biggest challenge the CIABOC faced is the lack of space and the facilities to carry out their duties in a very professional and conducive environment.
1. At present CIABOC is short of 200 investigators, very soon new units such as Expert Investigation Unit, and Prevention Unit will be established. Plans are afoot to set up Digital Forensic Unit, Intelligence unit, Victim and Witness Protection Unit and Education Unit. In order to set up these units CIABOC is in need of sufficient space.
2. The problem of lack of space has been further worsened due to the cracks appearing in one of the buildings. The government Engineer warned to abandon the building and as such, more than 75 officers were removed from the premises and temporarily relocated to a building previously occupied by Registrar of Persons in Keppetipola Mawataha.
3. Within few months, after the new government came in to power in 2015. Hon. Prime Minister had visited CIABOC premises and identified an adjacent land that was occupied by Prison Commission as an ideal place to put a new building for CIABOC. Accordingly Economic Committee of the Cabinet has given its approval to go ahead with the project and thus the premises was officially handed over to the CIABOC. President Secretary instructed CIABOC to submit a plan drawn by CCB and the approval of UDA to obtain monetary allocation from the Treasury. It has been signaled the monetary allocation could be met.

4. However, UDA on numerous occasions has placed various obstacles. Despite they agreed to grant permission to put up an eight storied building. Whilst this is not adequate, CIABOC believes that this is somewhat of an achievement. The next challenge the Commission faces is to find the required financing for the construction.

02. LOW SALARIES OF LEGAL OFFICERS AND INVESTIGATING OFFICERS

1. The salaries of the Prosecutors are very low and thus very challenging to attract and retain legal officers.
2. CIABOC has found it extremely difficult to recruit and retain legal officers. In countries such as Malaysia, the salaries of legal officers carrying out prosecutions of bribery cases are much higher than the State prosecutors.
3. Recently salary increase in the Attorney General's Department has discouraged legal officers to pursue other options such as CIABOC. Therefore through the Presidential Salaries and Cadre Commission.
4. Officers of CIABOC are only given 25% of an allowance that was calculated according to the salary in 2015. On the other hand there are several government departments that are recognized as "money earning" institutes. Therefore, those public servants are entitled to draw additional allowances. It is unfortunate CIABOC is not categorized as an institution that should be given 75% allowance. Which was given to them previously.
5. Whilst a recommendation to increase the salaries of legal officers of the Commission has been made by the Ministerial Sub Committee (headed by Hon. Thilak Marapana), the Salaries and Cadre Commission is yet to give its approval.

03. LACK OF STAFF

1. It is to be noted, though Hong Kong has a mere 6 million population, it has over 1000 investigators in their anti-corruption commission. Ratio is same in the case of Malaysia.

2. Though Sri Lanka has a population of 21 million they have only 200 investigators and 28 legal officers. Which is awfully inadequate.

04. LACK OF FINANCES TO ADEQUATELY TRAIN OFFICIALS OF THE CIABOC

1. In order to carry out effective prosecutions and trials there should be an abled and adequate number of legal officers. This is imperative in the face of defendants of major financial crimes being advised by specialists in the field. In such a context, perpetrators would walk free by tweaking the circumstances. Therefore the need to train and recruit the best legal officers is a must. Yet due to financial constraints, CIABOC has been unable to achieve this.
2. Addition to law enforcement, there needs to be a productive preventive mechanism within the country. In order for such mechanisms to be effective, it should cover all sectors. Thus, this endeavor requires well trained officials who fulfill the capacity where there needs to be continuing training of personnel.

05. LACK OF FINANCES TO RAISE AWARENESS AND GATHER THE CITIZENRY THROUGH DIGITAL PLATFORMS

1. In order to curb the deeply entrenched culture devoid of integrity, a government must take steps to bring about an ideological change within the society so as to instill good values within people. Drawing inspiration from foreign jurisdictions, there is a need to infuse good values in to the DNA of the people through various means.
2. As such documentaries, discussions, commercials, tele dramas, street dramas, notice boards have to be implemented through print media such as newspapers as well as television and radio.
3. The importance of digital media in raising awareness among the public was highlighted even by His Excellency President Maithripala Sirisena in his address to the Open Government Partnership forum.

4. With regards to this, Selacine which is an affiliate of the Finance Ministry has already agreed to help us and have estimated a total of 540 Million Rupees for awareness.
5. Cabinet already approved 200 Million for the Prevention Procedures in the public sector, 200 Million for Training.

06. PERCEPTION OF THE PUBLIC

The common perception of the public as to the role of the Commission is solely limited to the investigation and prosecution of perpetrators. In the event of the collection of adequate evidence against a perpetrator, CIABOC would not hesitate to prosecute such a person. One of the main challenges the CIABOC faces is this misconception of the public. Presently, CIABOC is at a position to lay a firm foundation to eradicate bribery and corruption in the country by strengthening itself as the focal anti-corruption agency of the country. After 25 years, CIABOC has finally arrived at an era of transformation.

Progress Report of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC)

(from 01st January 2018 to 30th September 2018)

01. Total number of cases filed in Courts up to 15.09.2018 - 35

Magistrates Courts

Bribery	Corruption	Non-Declaration of Assets and Liabilities	Total
04	02	07	13

Accused –

- Former Attorney General
- Former Secretary (Ministry of Power & Renewable Energy)
- Police Constable
- KKS
- Former mayor
- Secretary Laksala
- Judge of Court of Appeal
- Security Assistant Police
- Grama Niladhari
- Not a Government Servant
- Former Member of Pradeshiya s: (02)

High Court

Bribery	Acquire illegal assets	Total
19	-	19

Accused–

- Former ministers - 02
- P.H.I
- Health – KKS
- Store Keeper
- Technical Officer – RDA
- Principal
- Beat Forrest Officer
- Electrician
- Officer of Labor Department
- Brigadier of the Army
- GramaNiladhari
- Assistant Manager (sales)
- Civil person – 03
- Police Constable– 02
- KKS
- Army Soldier
- Electricity Superintendent

02. Total number of successful raids conducted from 2018.09.30 - 29

- Number of arrests in these raids - 32
- Suspects–
 - Secretary to the President
 - Civil person (02)
 - Agrarian Instructor
 - Assistant Superintendent of Police
 - Inspector Of Police (02)
 - Assistant Legal Officer
 - Planning Officer
 - GramaNiladari
 - Chef of Staff to the president
 - Electricity Superintendent
 - Excise Officer
 - Endemic Officer
 - KKS
 - Police sergeant
 - Senior Labor Officer
 - Development Office
 - Time Keeper (Privet buses)
 - Beat Forrest Officer
 - Industrial Administrator
 - Sub Inspector Of Police
 - Member Of Ayurvedic Formulary Committee
 - Police Constable (03)
 - Chairmen (State Timber corporator
 - Senior Assessor
 - Development Officer (Samurdi)
 - Labor Officer(02)
 - O.I.C(privet bus stand)
 - import and export controller

03. Total number of trials (cases) concluded by the Courts up to 2018.09.30 - 92

Magistrates Court - 19

	Bribery	Corruption	Non-Declaration of assets	Total
Convictions	03	01	13	17
Acquittals	01	-	-	-

High Court - 73

	Bribery	Acquire illegal assets	Total
Convictions	39	02	41
Acquittals	28	01	29
Other*	04	-	04

*Death of the Accuse / Death of the Complainer / Withdrawal

04.Total number of convictions in past four years.

Year	Number of cases filed	Concluded Cases	Total number of convictions
2005	98	12	05
2006	110	20	07
2007	91	33	12
2008	63	20	14
2009	43	56	24
2010	67	38	17
2011	34	40	20
2012	77	60	33
2013	58	55	17
2014	64	58	22
2015	108	52	15
2016	87	34	15
2017	73	89	57
15.09.2018	32	89	56

AMOUNT OF CONVICTIONS DONE BY THE COURTS FOR THE PAST YEARS

