

TRANSPARENCY INTERNATIONAL'S ANTI-CORRUPTION AGENCY ASSESSMENT TOOL AND THE JAKARTA PRINCIPLES

MAPPING THE SYNERGIES

The Jakarta Principles for Anti-Corruption Agencies (Jakarta Principles) are a set of 16 principles to ensure the independence and effectiveness of anti-corruption agencies (ACAs), as part of countries' commitments and obligations under the United Nations Convention against Corruption (UNCAC).¹ The principles were developed in 2012 by a group of experts, including heads of ACAs, anti-corruption practitioners and experts from around the world².

In 2015, Transparency International (TI) launched the *Anti-Corruption Agencies Strengthening Initiative* to encourage and support ACAs, and their respective governments, to realise and achieve their mandate to tackle corruption³. The initiative builds on existing work to support and strengthen ACAs, including the Jakarta Principles. To support this aim, TI has developed and refined a research methodology (the ACA Assessment Tool⁴) by which an individual ACA's performance and the external environment in which it operates can be measured, based on a set of 50 indicators under 6 dimensions:

1. ACA's Independence and Status (9 indicators)
2. ACA's Financial and Human Resources (9 indicators)
3. ACA's Accountability and Integrity (9 indicators)
4. Detection, Investigation and Prosecution (9 indicators)
5. Prevention, Education and Outreach (8 indicators)
6. Cooperation and External Relations (6 indicators)

This document maps the 16 Jakarta Principles against the 50 indicators from TI's ACA Assessment Tool in order to demonstrate the close synergies between the two. As the mapping shows, each of the 16 Jakarta Principles is covered by at least one (and often more than one) indicator. At the same time, the ACA Assessment Tool goes beyond the scope of the Jakarta Principles by examining not only the enabling environment and legal/institutional mandate of ACAs, but also by assessing all five anti-corruption functions commonly performed by ACAs (namely: coordination; detection & investigation; prosecution; prevention; and education & outreach).⁵ The Jakarta Principles, in contrast, only include the coordination function (under Principle 2: Collaboration). Thus, while dimensions 1,2,3, and 6 of TI's ACA Assessment Tool are closely aligned with the Jakarta Principles, dimensions 4 and 5 largely go beyond what is covered under the Principles.

Table 1 below maps the relevant indicators from TI's ACA Assessment Tool against each of the Jakarta Principles. Table 2 presents a list of those indicators from TI's ACA Assessment Tool which go beyond the scope of the Jakarta Principles.

¹ UNCAC Articles 6 and 36 requires state parties to establish ACAs with 'necessary independence'.

² https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_en.pdf

³ https://www.transparency.org/whatwedo/activity/anti_corruption_agency_strengthening_initiative

⁴ https://www.transparency.org/files/content/activity/2018_Revised_ACA_Implementation_Guide.pdf

⁵ A comparative study of the institutional arrangements for combating corruption in 14 countries found that ACAs commonly perform five key functions: investigation; prosecution; education and awareness raising; prevention; and coordination. See UNDP (2005). *Institutional Arrangements to Combat Corruption: A Comparative Study*. Bangkok: UNDP, page.8. http://www.asia-pacific.undp.org/content/rbap/en/home/library/democratic_governance/institutional-arrangements-to-combat-corruption.html

TABLE 1: COMPARING THE JAKARTA PRINCIPLES AND TI'S ACA ASSESSMENT TOOL

Jakarta Principles	Relevant indicators from TI's ACA Assessment Tool
<p>1. MANDATE</p> <p>ACAs shall have clear mandates to tackle corruption through prevention, education, awareness raising, investigation and prosecution, either through one agency or multiple coordinated agencies.</p>	<p>3. Mandate focuses on the ACA's mandate and functions, most fundamentally, whether the ACA performs the functions of investigation, education and prevention.</p> <p>4. Jurisdiction covers the sectoral and geographical scope of the ACA (e.g. whether the ACA's jurisdiction covers both public and private sector corruption and operates across all administrative levels).</p> <p>5. Investigative and prosecutorial powers focusses on the ACA's practical powers to: proactively initiate proceedings; compel other government agencies to co-operate; arrest and search suspects; examine suspect's bank accounts, safe-deposit boxes, income tax records and property; search and enter premises etc.</p> <p>6. Powers to report & enforce recommendations examines the ACA's power to develop and enforce binding recommendations on other agencies or on government anti-corruption policy more generally. This includes the power to publicly report on referrals, to expose issues and to hold public hearings and inquiries.</p> <p>8. Political use of powers addresses the question of whether the government relies on the ACA to use the above-mentioned mandate and powers as a tool against political opponents or for other political motives.</p>
<p>2. COLLABORATION</p> <p>ACAs shall not operate in isolation. They shall foster good working relations with state agencies, civil society, the private sector and other stakeholders, including international cooperation.</p>	<p>46. Cooperation with other integrity agencies assesses the relationship between the ACA and the other integrity agencies (auditor-general, ombudsman, public prosecutor, etc.) in the country in terms of both investigation/prosecution and prevention/outreach activities, where relevant.</p> <p>47. Cooperation with non-government organizations assesses the cooperation between the ACA and other organizations in the country, including CSOs, donor agencies, private companies and state-owned enterprises in terms of prevention/outreach activities.</p> <p>48. International networks assesses the ACA's participation in international networks and the extent of its involvement (e.g. ADB/OECD Anti-Corruption Initiative or the UNCAC Coalition).</p> <p>49. Cooperation with other countries assesses the ACA's cooperation with ACAs and law enforcement agencies in other countries, including through joint projects and technical assistance.</p> <p>39. Anti-corruption learning and development assesses the ACA's training and education initiatives during the past 3-5 years, including the number of persons attending the ACA's talks and seminars, the number of citizens and foreign delegates visiting the ACA, and the number of training courses for public officials.</p>
<p>3. PERMANENCE</p> <p>ACAs shall, in accordance with the basic legal principles of their countries, be established by proper and stable legal framework, such as the</p>	<p>1. Institutional independence addresses the legal basis for the ACA, namely whether it is statutory or constitutional agency accountable to the legislature, a separate agency accountable to a ministry or whether it operates within the police or a ministry.</p>

<p>Constitution or a special law to ensure continuity of the ACA.</p>	
<p>4. APPOINTMENT</p> <p>ACA heads shall be appointed through a process that ensures his or her apolitical stance, impartiality, neutrality, integrity and competence.</p>	<p>2. Appointment and removal of Commissioner(s) covers the process for appointing the ACA Commissioners, including the composition of the committee or those persons responsible for the appointment. It explores whether safeguards for ensuring impartiality are in place, including objective selection criteria and transparency of the appointment procedure. (This indicator also covers removal processes – see below).</p>
<p>5. CONTINUITY</p> <p>In the event of suspension, dismissal, resignation, retirement or end of tenure, all powers of the ACA head shall be delegated by law to an appropriate official in the ACA within a reasonable period of time until the appointment of the new ACA head.</p>	<p>8. Operational autonomy addresses, among other things, whether the ACA has operational control over selection, removal and transfer of senior staff, which includes mechanisms to ensure continuity in the absence of the ACA head.</p>
<p>6. REMOVAL</p> <p>ACA heads shall have security of tenure and shall be removed only through a legally established procedure equivalent to the procedure for the removal of a key independent authority specially protected by law (such as the Chief Justice).</p>	<p>2. Appointment and removal of Commissioner(s) covers - in addition to the elements described above - the process for removing the ACA Commissioners, including the conditions for removing or replacing them, as well as safeguards for ensuring impartiality and transparency of removal procedures. It also explores whether Commissioners have a fixed term (with tenure) and cannot be removed without proven cause (e.g. incompetence or misconduct). (This indicator also covers appointment processes – see above).</p>
<p>7. ETHICAL CONDUCT</p> <p>ACAs shall adopt codes of conduct requiring the highest standards of ethical conduct from their staff and a strong compliance regime;</p>	<p>27. Internal integrity mechanisms assesses the comprehensiveness of the ACAs code of conduct (e.g. asset declarations and conflict of interest rules, rules on gifts and hospitality, post-employment restrictions) and the processes in place for addressing breaches of the code and other malpractice as well as for handling internal complaints.</p>
<p>8. IMMUNITY</p> <p>ACA heads and employees shall have immunity from civil and criminal proceedings for acts committed within the performance of their mandate. ACA heads and employees shall be protected from malicious civil and criminal proceedings.</p>	<p>7. Legal autonomy explores, among other things, whether Commissioners and senior staff are immune from criminal and civil prosecution for acts committed within the performance of their mandate.</p>
<p>9. REMUNERATION</p> <p>ACA employees shall be remunerated at a level that would allow for the employment of sufficient number of qualified staff.</p>	<p>13. Staff salary and benefits covers the details of the salary scales and benefits of mid-level ACA personnel, including any significant changes in salaries and benefits during the past 3-5 years. It asks whether salaries are competitive vis a vis the private sector (e.g. banks, audit firms etc) as well as vis a vis other comparable civil servant positions.</p>

	<p>18. Stability of staff examines the level of turnover of the ACA's personnel (i.e. the movement of personnel resulting from the recruitment and resignation of staff), which itself can be an indicator of the adequacy of remuneration levels.</p>
<p>10. AUTHORITY OVER HUMAN RESOURCES</p> <p>ACAs shall have the power to recruit and dismiss their own staff according to internal clear and transparent procedures.</p>	<p>14. Staff selection focuses on the ACA's internal procedures for recruiting personnel (irrespective of existing civil service rules), including whether the procedure is both meritocratic and transparent.</p> <p>15. Investigation & prosecution expertise assesses the expertise of ACA's personnel in corruption investigation and prosecution (if applicable), as well as the average length of service of ACA personnel. The number of staff positions left unfilled for investigation and/or prosecution functions also serves as an indicator of the level of expertise.</p> <p>16. Prevention & education expertise assesses the expertise of ACA's personnel in corruption prevention and education, as well as the average length of service of ACA personnel. The number of staff positions left unfilled for prevention and education functions also serves as an indicator of the level of expertise.</p> <p><i>Note: While indicators 15 and 16 do not directly address the question of authority over human resources, they can act as a proxy for the extent to which the ACA has the requisite human resources in place to perform its functions (also relevant to Jakarta Principle 11, below).</i></p>
<p>11. ADEQUATE AND RELIABLE RESOURCES</p> <p>ACAs shall have sufficient financial resources to carry out their tasks, taking into account the country's budgetary resources, population size and land area. ACAs shall be entitled to timely, planned, reliable and adequate resources for the gradual capacity development and improvement of the ACA's operations and fulfillment of the ACA's mandate.</p>	<p>10. Proportion of budget looks at the average proportion of ACA's budget to total government budget for past 3-5 years.</p> <p>11. Sufficiency of budget assesses the sufficiency of ACA's budget for performing its functions and whether it is holding back on cases because of limited resources, as an additional indicator of the adequacy of the budget.</p> <p>12. Security and stability of budget ascertains whether the ACA has encountered problems in getting approval for its annual budget request, whether the allocated budget is dispersed in a timely manner and if there have been significant changes in the ACA's budget during the past 3-5 years.</p> <p>17. Staff training covers the number and type of training courses attended by the ACA's personnel as well as the training courses available to them during the past 3-5 years. It also explores the budget allocated by the ACA to training during the past 3-5 years.</p>
<p>12. FINANCIAL AUTONOMY</p> <p>ACAs shall receive a budgetary allocation over which ACAs have full management and control without prejudice to the appropriate accounting standards and auditing requirements.</p>	<p>11. Sufficiency of budget - in addition to the elements described above - also assesses whether the ACA has the autonomy to define and seek approval for its own budgetary requirements.</p>
<p>13. INTERNAL ACCOUNTABILITY</p> <p>ACAs shall develop and establish clear rules and standard operating procedures,</p>	<p>22. Internal review mechanisms looks at the ACA's internal review processes including whether the ACA has a corporate plan, M&E framework and performance evaluation measures and whether it collects public perception data on the ACA's performance.</p>

<p>including monitoring and disciplinary mechanisms, to minimize any misconduct and abuse of power by ACAs.</p>	<p>27. Internal integrity mechanisms assesses, among other things, the processes in place for addressing breaches of the code of conduct and other malpractice as well as for handling internal complaints.</p> <p>24. Willingness of complainants to identify themselves assesses the willingness of complainants and whistleblowers to identify themselves to the ACA, as a measure of their confidence in the ACA's processes.</p> <p>25. Complaints handling assesses the procedure for dealing with complaints against the ACA's personnel and its effectiveness.</p> <p>26. Outcomes of complaints assesses the outcomes of complaints against ACA or its personnel in past 3-5 years and whether any valid complaints are ignored.</p>
<p>14. EXTERNAL ACCOUNTABILITY</p> <p>ACAs shall strictly adhere to the rule of law and be accountable to mechanisms established to prevent any abuse of power.</p>	<p>21. External oversight mechanisms assesses the strength of the ACA's external oversight mechanisms as a whole, with a particular focus on the ACA's oversight committee(s). It also explores additional oversight mechanisms (e.g. regular reporting to parliament, external audit, judicial review).</p> <p>23. Adherence to due process assesses the public's confidence in ACA's adherence to due process, impartiality, and fairness in use of its powers and treatment of persons under investigation.</p>
<p>15. PUBLIC REPORTING</p> <p>ACAs shall formally report at least annually on their activities to the public.</p>	<p>19. Annual reporting assesses the comprehensiveness and accessibility of the ACA's annual report.</p> <p>20. Responsiveness to information requests assesses the ACAs transparency in terms of responsiveness to specific requests from the public (as opposed to proactive transparency, which is the previous indicator).</p>
<p>16. PUBLIC COMMUNICATION AND ENGAGEMENT</p> <p>ACAs shall communicate and engage with the public regularly in order to ensure public confidence in its independence, fairness and effectiveness.</p>	<p>44. Online communication assesses the ACA's use of online channels/social media for disseminating information on corruption prevention and for broader outreach to the public, including whether the ACA has a broad online communications strategy.</p> <p>45. Confidence in Government support to the ACA assesses public confidence that government has given ACA the required powers and resources for curbing corruption.</p> <p>50. Accessibility to marginalized groups assesses the ACA's responsiveness and accessibility to marginalized groups (e.g. women, disabled people or ethnic minorities) including whether the ACA uses disaggregated data to inform the ACA's outreach and accessibility policies.</p>

TABLE 2: INDICATORS COVERED BY TI'S ACA ASSESSMENT TOOL WHICH GO BEYOND THE SCOPE OF THE JAKARTA PRINCIPLES

TI ACA Assessment Tool Dimension	TI ACA Assessment Tool Indicators
Detection, Investigation and Prosecution	28. Accessibility to complainants/ informants assesses the ACA's accessibility to corruption complainants/informants, as reflected in the proportion of corruption complaints received relative to population and perceived level of corruption.

	<p>29. Responsiveness to corruption complaints assesses the ACA's responsiveness to corruption complaints and to information received, as reflected in the proportion of relevant corruption complaints/ information investigated during past 3-5 years.</p> <p>30. Proactive investigation assesses how proactive the ACA is in initiating investigations of its own accord.</p> <p>31. Efficiency & professionalism assesses the ACA's professionalism in investigating corruption cases, as reflected in the average time taken by the ACA to complete the investigation of a corruption case, the number of successful cases prosecuted, and the number of persons convicted during the past 3-5 years.</p> <p>32. Prosecution rate assesses the average prosecution rate of corruption cases investigated by the ACA in the past 3-5 years. (If the ACA does not have the mandate to prosecute corruption, this indicator is assessed in terms of Government support to the ACA for prosecution of corruption cases.</p> <p>33. Conviction rate assesses the average conviction rate of corruption cases investigated by ACA in past 3-5 years.</p> <p>34. Investigation of influential persons assess the ACA's willingness to investigate influential persons for corruption without fear or favour, as reflected in the number of influential persons investigated by the ACA during the past 3-5 years.</p> <p>35. Restitution & asset recovery assesses the ACA's role in restitution, asset recovery, freezing and confiscation, as reflected in the number of cases and the amounts of assets recovered, frozen or confiscated by the ACA during the past 3-5 years.</p> <p>36. Perception of performance assesses public perceptions of the ACA's performance, using survey findings where available.</p>
<p>Prevention, Education and Outreach</p>	<p>37. Allocated budget assesses the average proportion of ACA's operating expenditure allocated to public outreach, communication and prevention during past 3-5 years.</p> <p>38. Strategic planning assesses the comprehensiveness of the ACA's strategic plan for prevention, education and outreach and its implementation.</p> <p>40. Organizational reviews assesses the number of reviews of organizational procedures, systems, capabilities and risks conducted by ACA to prevent corruption during past 3-5 years.</p> <p>41. Prevention recommendations assesses the frequency of including corruption prevention recommendations in ACA's investigation reports during past 3-5 years.</p> <p>42. Research on corruption risks assesses the ACA's research and exploration of corruption risks, context and conditions.</p> <p>43. Dissemination and campaigns assesses the type of corruption prevention information disseminated by the ACA and whether the ACA relies on campaigns to spread the corruption prevention message.</p>