

# Annual ACC Report 2012

## Prepared by the Good Governance Committee

### 1. Introduction

As required by the Constitution of the Kingdom of Bhutan, the Anti-Corruption Commission (ACC) submits its annual report to the Parliament on an annual basis. In the National Council, the Report is reviewed by the Good Governance Committee (GGC) and presents its observations to the House for deliberation during the Session. Over the past few weeks, the GGC studied the Annual ACC Report 2012 and main observations are presented in the following order: first, a brief overview of performance of the ACC, followed by corruption scenario of the country, challenges, issues for discussion, and finally the general statement.

### 2. Performance of the ACC

The performance of the ACC during the reporting period is summarized under two subsections: i) institutional development, and ii) three pronged strategies for combating corruption.

#### 2.1. Institutional development

In pursuit of its commitment to build a strong, effective and credible institution, the ACC has been making sustained and conscious efforts in institutionalizing integrity in its system of governance. Various tools have been employed including:

*Corruption risk management (CRM) exercise:* The first CRM was conducted in 2010, which identified 18 potential corruption risks and 34 recommendations corresponding to the causes of those risks. Monitoring the implementation status of action plan is done on bi-annual basis.

*Integrity diagnostic tool (IDT):* This is a new tool introduced to promote integrity. The tool provides organization with a blueprint for diagnosing their integrity challenges and corruption risks. It was pilot implemented in the ACC in October 2012 involving 42 staff members. In February 2013, the IDT was re-administered and the results showed an improvement in the scores.

The Commission has also been making continuous efforts to reduce internal conflicts and enhance cohesion and performance amongst the divisions/teams within the organization. The evaluation of 2012 direction indicated such efforts have improved the working culture within the divisions/teams.

Drawing lessons from over six years of working in the area of addressing corruption issues in the country, the Commission has now decided to synergize the three-pronged strategies into sectoral approach. The restructuring exercise has been complete and has been adopted by Commission in February 2013.

To ensure greater efficiency, transparency and security, ICTization of systems is another area the Commission has been focusing on. Development of computer and network policy and the modification of Investigation Management System based on sectorization are currently underway.

## **2.2. Three-pronged strategies to combat corruption**

The ACC's mandate to combat corruption is being delivered through three-pronged strategies. Activities implemented under each strategy during the reporting period is presented in the following paragraphs.

### **2.2.1. Public education and advocacy services**

Citizens and public servants engagement through awareness is pivotal to the fight against corruption. Following are the series of activities implemented during last one year:

- Conducted technical sessions and dialogue with nine ministries, advocacy program on corruption issues and values in 11 schools, infusion of integrity in the existing clubs, and rolling out of the e-learning program on ethics and integrity in close collaboration with RCSC and RIM.
- Petty corruption is generally perceived as trivial and something that the ACC should not be wasting its energy and resources on. In reality, it is petty corruption that affects the lives of ordinary people on daily basis. The impact of corruption is much more serious in the rural areas as people have less access to and limited choices over the delivery of public services, besides the highly hierarchical culture and weak local governance system. Therefore, advocacy program was conducted in 21 gewogs for 3797 people consisting of local government administrators, gewog civil servants, business people and general public. The program was to empower people with knowledge and tools to demand accountability from the service providers, which can deter occurrences of corruption.
- Building responsible and honest young Bhutanese is the foundation to fostering an intolerant anti-corruption culture. Schools are ACC's vital partner as they have the paramount responsibility in molding the mindsets of the young citizenry. ACC has conducted interactive sessions with 33 schools across the country. ACC also held an interactive sessions with graduates and De-suups. The ACC has incorporated a module into a Finance Ministry's five-day training program in procurement compliance at RIM.
- A communications strategy has been developed to engage media fraternity to help ACC raise awareness and educate people about integrity and anti-corruption values.
- During the reporting period 2749 civil servants from four ministries, 2 constitutional bodies and nine autonomous agencies have undertaken a e-learning program on ethics and integrity management in public service.

### **2.2.2. Preventive services**

The activities under preventive services are aimed at fighting corruption at a system level. During the reporting period, the ACC has carried out activities under the following four broad categories:

*A critical review of the existing system:* It has been established that corruption is largely taking place due to system weakness, thereby motivating people with low ethical and moral values to exploit it. The ACC undertakes systems studies either reactively or proactively in close consultation with the concerned stakeholders. The system studies identify risks, analyze their causes and make recommendations for improvement. The recommendations are followed up to ensure its successful implementation. A proactive system study on Foreign Workers Recruitment and Administration System (FWRAS) was conducted in early 2013. The study revealed contradiction between the policy and ground reality (the details of the report is explained in Section 5.3). The findings of the study were shared with the Ministry of Labour and Human Resources for follow-up actions. Similarly, a study on Integrity and Value Education in Schools was conducted and its findings were shared with the Ministry of Education.

*Managing organizational risks and enhancing efficiency through Corruption Risk Management (CRM):* CRM is an important assessment and management tool, which the ACC has been pursuing since 2010. In the initial stage, the primary focus was placed on building the capacity of agencies on CRM through involvement of Internal Auditors (IA) and the agency for their first CRM exercise. The current focus is placed on the implementation of the CRM recommendations and application of CRM in other vulnerable areas. Under this area, the following activities were implemented during the reporting period:

- Facilitated in the conduct of CRM exercise in four agencies, namely Mongar Dzongkhag Administration, Mongar Regional Referral Hospital, Ministry of Labour and Human Resources, and Bhutan Power Corporation Ltd.
- As a part of continuous process towards building the CRM capacity of agencies, a second round of training on CRM for 43 Internal Auditors was conducted.
- A total of 699 participants were trained on CRM. After the conduct of CRM exercise, many agencies developed their own service rules and standards, Code of Conduct and instituted Conflict of Interest (CoI) declaration administration system.
- Implementation status of CRM action plans are monitored and evaluated on bi-annual basis by the ACC in collaboration with the agencies. During the reporting period, except for the Construction Development Corporation Limited (CDCL), 19 agencies had not fully implemented the CRM.

*The implementation status of National Anti-Corruption Strategies (NACS):* The NACS is the operationalization of the Government's policy of "Zero Tolerance for corruption". The NACS spells out seven key strategic considerations viz: Promoting leadership; Ensuring sustainable political will; Reviewing of legal framework; Reviewing and strengthening of institutional

capacity; Reviewing and refining of systems; Developing long term educational strategy in building an awakened citizenry; and Promoting partnership. Over the last two years, the ACC has been reporting on the implementation status of NACS to the parliament. The update of the implementation status of NACS in 2012 include:

- Against the 107 agencies (i.e Judiciary, Constitutional Bodies, Ministries, Autonomous Agencies, Thromde, FIs, Corporations , CSO and private organizations), the ACC wrote to, only 37 agencies reported on having NACS mainstreamed within their operations and submitted implementation reports as of April end 2013.
- This year no agency reported of being unaware of NACS. Of 24 agencies which reported on the NACS implementation the previous year, 11 (46.3%) did not report this year.
- Except for the Ministry of Home and Cultural Affairs, dialogue with nine ministries has been conducted. Even then Ministry of Finance, Foreign Affairs, Labour and Human Resources and Works and Human settlement have failed to report on the NACS implementation.
- ACC has not yet carried out sensitization on NACS with private sectors, however a modest efforts have been made to educate CSOs on NACS and other Anti-corruption tools.

*Asset declaration:* Following achievements were made in the year 2012:

- Cabinet members, holders & members of constitutional offices, secretaries, heads of armed forces, heads of autonomous agencies, Dzongdas & chairpersons of Thromde Tshogdus declared their AD on time (100%).
- AD compliance rate of heads of religious organizations was 45.6%.
- Verification process started.
- Fine of about Nu.130000/- collected : Nu. 30,000 & Nu.100000 from Schedule I and II declarants.

### **2.2.3. Investigation services**

Achievements under this services is presented under two subsections: i) Complaint management, and ii) Outcome of the complaints.

#### **2.2.3.1. Complaint management**

ACC receives complaints through post, telephone, fax, walk-in and ACC web. All these complaints are managed in accordance with the Complaint Management Policy and Procedure Manual, which was adopted in September 2012. Under the new organizational structure, the complaint management and follow up services have moved from investigation services to be directly under the Commission.

*Number of complaints received:* During the reporting period, ACC has received 449 complaints as compared to 456 and 375 in 2011 and 2010 respectively. Maximum of the complaints was received through the ACC web, making up 36% of the total.

*Complaints by type of corruption:* Abuse of functions is still a major type of corruption constituting 30.29% of the total complaints. The type of corruption generally manifests in favoritism, nepotism or patronage and commission or omission of an act to obtain advantage for private benefit.

*Complaints by area of corruption:* During the reporting period, maximum number of complaints were on resources (30.07%) followed by land (15.59%) and personnel (8.46%). Corruption in resources takes place in the form of embezzlement, misuse of project funds and government properties. The same pattern was observed in the 2011 report as well.

*Complaints against agencies:* During the reporting period, the ACC received maximum complaints against the local government (18.71%) followed by autonomous bodies (12.92%) and private sector (12.70%). Local government topped the list in the 2011 report as well.

*Complaints against Dzongkhags:* During the reporting period, the ACC received the highest number of complaints for Thimphu (121, 26.95%) followed by Chukha (39, 8.69%) and Paro (36, 8.02%). Gasa and Trashiyangtse had the least number of complaints (5,1.11% and 7. 1.56%). Such pattern of complaints is attributable to the scope of activities and corresponding distribution of resources including public servants in the dzongkhags, proximity to the ACC, level of public awareness on corruption and the knowledge of where and how to report corruption.

#### **2.2.3.2. Outcome of complaints**

Out of the 449 complaints, only 115 complaints qualified for investigation as the rest were either dropped or shared with the agencies for sensitization or for action. Investigation on only 6 cases out of 115 cases eligible for investigation could be started. During the reporting period 21 new cases were opened for investigation in addition to the cases in hand carried forward from the previous year .

### **2.3. Implementation status of Parliamentary resolutions**

This section of the report presents implementation status of the National Council's resolutions passed during its 9<sup>TH</sup> Session.

*Resolution No.1: The GG Committee in collaboration with the ACC to study factors that determine sluggish implementation of NACS*

The ACC has fielded in an expert from Basel Institute of Governance to conduct a review on the implementation of NACS. The report is yet to be finalized and the Committee awaits the report from the ACC.

*Resolution No. 2: The ACC to expedite the formulation of Debarment Rules and its implementation in order to address issues of high degree of corruption in public procurement and construction sectors. ACC to review the Gift Rules 2009 to ensure it was implementable.*

The Debarment rules 2012 has been validated by stakeholders in October 2012 and is now finalized. The Gift rules 2009 for prohibiting the solicitation, restricting the acceptance and setting procedures on disclosure of gifts has been validated by the stakeholders in October 2012 and finalized.

*Resolution No. 3: The ACC should expedite Corruption Risk Management(CRM) exercise across all agencies beginning with those which are highly vulnerable to corruption.*

ACC conducted CRM exercises in five agencies, namely Monger Dzongkhag, Mongar Referral Hospital, National Council Secretariat, BPC and MoLHR.

The training of trainers in CRM was conducted for Internal Auditors. Modest in-house CRM capacity in the ACC has been built to enable the integrity promotion officers to conduct CRM exercises in other agencies.

*Resolution No. 4: ACC should consider instituting a chamber for relaying actions taken on non-anonymous complaints received.*

Investigation Management System has provision to inform the complainants on the action taken on their complaints in the future.

*Resolution No. 5: ACC should enhance its efforts on proactive investigations*

ACC has a policy to take up cases that will have larger impact on the society. Independent review of system such as Labour Recruitment Agency has been conducted as part of proactive initiative.

*Resolution No. 6: The ACC should include in its annual report case log sheets and assets declarations of the Commission and annexure*

With the case load increasing, inclusion of case log sheet and asset in the annual report was becoming expensive. ACC intends to post information on cases that have been investigated and adjudicated on its website.

*Resolution No.7: The ACC should include local government tshogpas/thromde thuemis in its public education and advocacy program*

Public education and advocacy programs conducted for the gewogs including the Tshogpas and Thromde Thuemis. Till date ACC has conducted local level advocacy programs in 70 gewogs. Five ACC teams headed by a commissioner is still in the field conducting advocacy programs in rest of the gewogs.

### **3. Scenario of corruption in the country**

If the corruption in the country can be assessed based on Transparency International Corruption Perception Index (TI-CPI) and NIA survey report, the following paragraphs present the overall scenario.

### **3.1. TI Corruption Perception Index**

The TI-CPI ranks countries and territories based on how corrupt their public sector is perceived to be. A country or territory's score indicates the perceived level of public sector corruption on a scale of 0-100, where 0 means that a country is perceived as highly corrupt and 100 is perceived as very clean.

The TI-CPI 2012 report released on 5 December 2012 ranked 176 countries and territories. Out of that Bhutan was ranked 33rd with a score of 63 above South Korea, Taiwan, Israel and Portugal to name a few countries. In comparison to CPI 2011, Bhutan's ranking increased by five places with significant increase of score from 57 to 63.

### **3.2. National Integrity Assessment Survey**

NIA assesses the level of integrity in public organizations. Integrity is defined as " the degree to which a public official carries out his/her work of duties transparently and responsibly without committing acts of corruption. The primary objective of the NIA was to improve integrity through diagnosis and elimination of corruption opportunities in public organizations, while to study impact of the ongoing anti-corruption efforts as one of the subsidiary objectives.

The NIA survey 2013 indicates that 68% of respondents perceive corruption to have decreased in the past five years as against 16.4% in 2007 CPS; 17.9% of respondents perceive corruption to have increased in the last five years as against 43% in 2007. Further, the national integrity score increased from 7.44 in 2009 to 8.37 in 2013. However, corruption index remains more or less same at 8.67 in 2013 and 8.59 in 2009. Globally, 16% of the interviewees feel that corruption has decreased, 27% feel it has stayed the same and 59% feel that corruption has increased.

## **4. Challenges in fighting corruption**

Despite an encouraging scenario presented by both the TI-CPI 2012 and the NIA 2012, fighting corruption in Bhutan continues to be a challenge due to factors such as, high level of societal, political and systems tolerance for corruption, poor accountability in the governance system, weak and discriminate enforcement of law, prevalence of kidu culture, lack of ownership of anti-corruption and integrity promotion measures, weak collaboration and cooperation between institutions, etc.

## **5. Issues for discussion**

The following are some of the issues that merit discussion based on Committee's observation from the ACC Annual Report 2012.

### **5.1. Corruption in recruitment and selection**

The Annual Report 2012 highlights that the corruption in recruitment and selection although may appear to be small and declining, it is still prevalent in our system. This claim is substantiated by the fact that from the complaints the ACC received over the last five years (2008-2012), under type of corruption, abuse of function is the highest with 33%. It largely manifests in the form of favoritism and nepotism, which is perceived to be the most prevalent. Further, in the area of corruption, complaints related to personnel action is the third highest with 14% of the total complaints received and it is largely to do with recruitment.

There is a general perception that vacancy announcements and selection processes are only to complete formalities as the favored and recommended candidates are already identified. Another pervasive perception is that public servants who allow inefficiency or/and corruption to perpetrate in their agencies are promoted and nurtured by the system while the perpetrators are penalized. Such unhealthy perceptions demoralize and disenchant public servants impacting on the delivery and quality of public service. It also makes people distrustful of the system and disillusioned by such shortcomings, which is not healthy for the society in the long run.

A corruption risk assessment of recruitment and selection has typically identified risks such as:

- Manipulation of selection procedure to favor one or the other;
- Failing to declare conflict of interest;
- Appointing members on the selection panel;
- Determining the selection criteria to suit the candidates profile;
- Withholding vital information on time and notification;
- Leaking information to candidates;
- Falsification of qualification on employment history;
- Long term intern and temporary employment of candidates to evade selection interview.

Apparently the issues have prevailed despite an existence of sufficient guidelines, rules and regulations to ensure that recruitment and selection are conducted in a fair, objective and transparent manner. This then points at the lack of enforceability, which ultimately boils down to ineffective leadership in the organization. Recruitment and selection of people with good track record, high integrity standard, leadership qualities and sound competency, therefore becomes all the more crucial to root out corruption at source.

Based on these observations, the Committee recommends that the government should ensure strict implementation of rules and regulations on recruitment and selection by the agencies and specifically emphasizing on the following:

- Merit based recruitment and selection should precede over social connection;
- Effective mechanism to fix accountability on the head of an agency and human resource officer;
- Strict implementation on the declaration of conflict of interest;
- Re- visit the current practices and improve.

## **5.2. Corruption in land**

From the areas of complaints received during the reporting period, the number of complaints on land is the second highest after resources. The forms of complaints are generally on illegal transfer of land, abuse of functions by land administration officials and local leaders, encroachment into government land, etc. Considering that the complaints on land related corruption is repeatedly featured in every annual report and land as a State's scarce natural resources, there is a need to conduct a comprehensive study to understand the issue holistically. The RAA has conducted a performance auditing on lease of government land and Government Reserved Forests (GRF) in which numerous issues are being highlighted that mainly covers administrative lapses.

The Committee proposes that the National Council reviews this Performance Audit Report in tandem with the issues on corruption in land and report the outcome in the next Session.

## **5.3. Foreign workers recruitment and administration system (FWRAS)**

As a proactive system study, the ACC had reviewed the FWRAS early this year due to increasing demand for foreign workers and inherent potential corruption risks that entails in the process of their recruitment.

The system studies has identified some of the weaknesses as follows.

- Non compliance of rules;
- No clear system to process the additional workers;
- 95% involvement of labour contractors;
- Lack of capacity in detecting skills;
- No proper system of monitoring repatriation.

Furthermore, the study has found that with a payment of Nu. 300 per foreign worker (on an average) to the Foreign Worker Recruitment Agencies, the total cost incurred to the employers works out to be Nu. 30million (for 100,000 foreign workers recruited annually) without generating any value addition. It not only adds to the administrative burden and cost to the employers and Government, but also creates opportunity for collusion and other unethical behavior.

In view of the above findings, the Committee proposes that the Government ensures implementation of the ACC's recommendations as follows:

- Revisit the present rules and regulations and create awareness;
- Screening and skills testing needs to be done;
- Accountability needs to be fixed on the responsible agencies;
- Examining the institutional capacity of FWRA;
- Strengthening the process of repatriation of foreign workers and establishing a system to detect illegal foreign workers.

#### **5.4. Lack of collaboration and cooperation between institutions**

Lack of collaboration and cooperation between the institutions is identified as one of the challenges faced in addressing corruption. Fighting corruption is a collective responsibility and, therefore concerted efforts will have to be made by all concerned agencies and individuals at every level. However, the following instances (as highlighted in the Annual Report 2012) are highly indicative of the fact that agencies/institutions have failed to render adequate collaboration and cooperation to the ACC in its effort towards fighting corruption:

- the yearly reviews of the implementation of NACS reveal that the strategies have not secured much support from the government. The ownership of it and implementation status across agencies still remains weak. Similarly, implementation status of CRM action plans does not suggest any better picture.
- the differing views on the Gyalpozhing land case between the ACC and the Office of Attorney General (OAG) led to OAG not prosecuting the case and instead, the ACC took over the prosecution. The situation has raised pertinent questions on OAG's independence and accountability, and ACC's role of prosecution.

This particular incidence simply proves that such differences in opinion between the Institutions could occur, which might potentially undermine the very effort of fighting corruption in the future. Considering the seriousness of its consequences that the society and country may have to bear eventually, it is imperative that the Institutions which are legally mandated to work towards addressing corruption must do so, professionally and resiliently. In order to safeguard the key Institutions from succumbing to undue influences of the political and money power in the future, the current system needs to be reviewed properly and appropriate measures will have to be put in place. The GG Committee has requested the Legislative Committee to brief the House on this front.

Lack of ownership and commitment of the agencies on implementation of the anti-corruption and integrity promotional measures is a manifestation of inadequate cooperation and collaboration from the agencies. As mentioned earlier, fighting corruption is a collective responsibility, which requires multiple strategies by multiple stakeholders. One of the important strategies is improving administrative system by plugging system loopholes to prevent corruption. ACC's anti-corruption and integrity promotion measures is a part of this important strategy.

Therefore, the Committee proposes that the Government emphasizes on conscious enforcement of anti-corruption and integrity promotional measures in the agencies.

#### **5.5. Political and Electoral corruption**

According to the Global Corruption Barometer 2010/11 conducted by TI, political parties are perceived to be the most corrupt followed by Parliament/Legislature, Police, Public officials/civil service and Judiciary. Although no such study has been conducted for Bhutan, we already know that we are exposed to such risks to a great degree. With just over five years of being into democratic system of governance, sporadic incidence of alleged political and electoral have already come to a limelight. The Annual ACC

Report 2012 highlights of few cases related to political corruption such as the manipulation of CDG project, and fast tracking of construction of airports in Bumthang and Gelephu without fulfilling the required technical studies that are integral to the design of the project to complete it within its tenure.

Electoral corruption takes place in the form of vote buying and selling through various means (cash, food, clothes, transportation during voting time, mobile and vouchers, household goods, infrastructure, construction material, agricultural inputs, scholarships, jobs, contracts and other services). During our recent Parliamentary elections, complaints on such allegations were raised by the two political parties. It is quite telling of the vulnerability of our society to it.

There is no denying that political and electoral corruption will seriously undermine democracy. Vote buying and selling becomes entrenched in political culture as the buyer is encouraged to look for more resources and misuse public funds to buy votes; and seller is encouraged to exploit the opportunity. Money politics, lobbying and influence will eventually dominate governance system.

Such governance system will lead to destructive effects on economic growth, investment, human development and environment; erode public trust in governance system; engender deep sense of injustice and inequity creating destructive impact on social harmony, security and sovereignty.

Therefore, Committee proposes that a thorough study be conducted to assess the degree of risks we are exposed to the political and electoral corruption based on the past incidences and come up with appropriate safeguarding measures.

## **6. General statement**

The Committee has observed that ACC has undoubtedly done a commendable job in combating corruption. Its achievements in the past one year is highly impressive. Besides having undertaken several other initiatives in the overall system, sustained and conscious efforts have been made in institutionalizing integrity in its own system of governance. This is an exemplary precedence set by the ACC that other similar check and balance institutions could think of emulating. It is only through building within itself as a strong, effective and credible institution that it can win the confidence of the public. To begin with, the National Council members could consider adopting Integrity Diagnostic Tool (IDT), in addition to the CRM (which the National Council of the first Parliament already conducted).

Another highlight of the Annual Report 2012 is the ACC's vigorous effort in reaching out its education and advocacy services to the local governments. Given our growing concern over rampant corruption taking place in the local governments, the Committee would like to commend this effort of ACC's but further urge that as much as education and advocacy services have made its breakthrough, if complaint management services could also be extended to the rural areas.

We once again thank the ACC for its comprehensive report and to the National Council for giving GG Committee this opportunity to study the report and present it to the House. We look forward to a very fruitful deliberation on the whole report presented and particularly, on those issues we have highlighted.