

# Annual ACC Report 2013

## Prepared by the Good Governance Committee

### 1. Performance of the ACC

- Shift from Divisions to Sectors to improve anti-corruption services delivery

Thematic Sectors are:

- Human Resources Management and Development Sector;
  - Procurement and Construction Sector
  - Land and Natural Resources Sector
  - Finance and Business Sector
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- A team in each sector delivers public education, prevention and investigation services in their respective areas.
  - Through these four thematic sectors, the ACC has made the following progress:
    - Human Resource Management and Development Sector
      - Out of 149 complaints received from 2007-2010 related to human resources, the team has analyzed and closed 124 complaints with the remaining 25 for further action.
      - The sector also proactively intervened in advising and making recommendations to the selected government and corporate agencies.
    - Procurement & Construction Sector
      - Out of 110 complaints received from 2006-2009 related to procurement, the team has analyzed and closed 95 complaints with 15 remaining for further action.
      - As one of the preventive measures for rampant corruption occurring in procurement and construction sector an Integrity Pact was introduced in local procurement system in 2009. The pact is essentially an agreement between a bidder and a procuring agency not to engage in corrupt practices in works, good or services. The revised IP after taking into account of several implementation challenges has been finalized and has come into effect from October 2013.
    - Land and Natural Resources
      - Out of 93 complaints received from 2006-2013 related to LNRS the team has reviewed and closed 63 complaints with 30 for further action.
    - Finance and Business
      - Investigation into fraudulent practices has been done at the behest of one of the financial institutions;
      - A reactive system study was conducted in some selected agencies.

- Guidelines on Investigation and Prosecution of Private Sector corruption has been prepared and is yet to be finalized among tripartite partners (ACC, OAG, RBP).
- Asset declaration compliance rate has been 85.5% in 2013 as against 85.98% in 2012. Non compliance are mostly to do with Heads of Religious Organizations, and Heads of CSOs/NGOs. This is attributed to inadequate awareness.
- As part of public awareness and advocacy programme, the ACC has conducted meetings with various stakeholders ranging from youth to people and leaders of local government (covering 126 gewogs) to various government and private organizations.
- In order to foster trust for the ACC by the people, constant efforts are being made to ensure high level of integrity among the staff of the Commission.
  - Three donor funded projects were audited by the RAA and there was no audit observation.
- Multilateral organizations' view of ACC as a performing Anti-Corruption Authority (ACA) in the Region and beyond

Invitation to workshops by ADB, UNDP, UNODC to share our experiences

Multilateral organizations recognize ACC has good practices to share

South-South Exchange program sponsored by UNDP Bangkok – 4 countries

Complaints Management and Asset Declaration Systems (software-base) are recognized as best practices

- Investigations on four very important cases have been conducted and findings shared with respective agencies and these agencies have already started making interventions to plug the loopholes.
- One of the important preventive measures is the NIACS, which has six key objectives. The NIACS has been mainstreamed into 11<sup>th</sup> FYP KRAs and KPIs. It has also been incorporated into Government Performance Management System (GPMS)
- Priorities areas for 2014
  - Enhance collaboration and coordination with various stakeholder agencies;
  - Strengthen networks with regional and international agencies such as CBI, India, BIG, Switzerland;
  - Continue effort in institutional development;
  - In order to mainstream anti-corruption measures, an action plan will be drawn to build the capacity of CSOs and other relevant agencies on social accountability tools;
  - Measures to ensure efficient and effective investigation services will be implemented;

- All the complaints will be analyzed for logical conclusion and mop up operation will be undertaken to complete cases at hand before the present commissioners end their term next year.

## 2. International standing on corruption

- **TI Corruption Perception Index**

The TI CPI ranking is a key performance indicator of the EFYP under its national key result area of “Corruption reduced”. The target is to attain the 20<sup>th</sup> position by end of EFYP. The TI CPI 2013 has ranked Bhutan in the 31<sup>st</sup> position among 177 countries and territories with a score of 63. It has moved two notches up from 2012 TI CPI among 176 countries and territories. However, the score has remained the same.

Bhutan sustained her rank in 6<sup>th</sup> position among 28 countries in the Asia Pacific region.

- **Global Competiveness Index**

Bhutan for the first time has been included in the GCR 2013-14. She ranks 109 out of 148 countries with the overall score of 3.73 (on a scale of 1-7, where 1 means extremely weak and 7 is extremely strong). Both the scores of TI CPI and GCI are just over the average, which renders Bhutan vulnerable to corruption.

### Select aggregates of 1<sup>st</sup> pillar of GC for Bhutan (GCR Report 2013-2014)

1st Pillar	Institutions	Value (1-7)	Rank/148
<b>A</b>	<b>Public Institutions</b>		
Ethics and Corruption	Diversion of public funds	3.1	81
	Public trust in politicians	3.1	61
	Irregular payments and bribes	2.9	124
Undue Influence	Judicial independence	2.8	115

	Favoritism in decisions of government officials	3.1	70
Government efficiency	Wastefulness of government spending	3.2	73
	Burden of government regulation	3.5	70
	Transparency of government policy making	3.6	119
<b>B</b>	<b>Private Institutions</b>		
Corporate Ethics	Ethical behaviour of firms	3.8	80

### 3. Implementation status of Parliamentary resolutions

#### 11th Session of the National Council

- *Resolution no. B (1), September 18 & 20, 2013: ACC must give importance in establishing complaint management services in Gewogs.*
- *This requires appropriate environment. Meanwhile working together with DLG & RIM in building social accountability. Introduction of instruments like social audit, community score card & report card & budget analysis & expenditure tracking will help in the long run. People also sensitized through advocacy program.*

#### 12th Session of the National Council

- *Resolution F (1), Recommendation (2), 7/2/'14: ACC to review & submit a report on misuse & seizure of Government land & reserved forest in 20 dzongkhags to National Council.*
- *Very important task & urgent. ACC will not be able to undertake the task, which is huge, aggravated by poor inventory of land stock & works in hand. NIACS identified land as vulnerable area & will review it. Complaints of a dzongkhag & dungkhag studied & preapring for investigation. NLCS may already be in the process of conducting a similar task.*

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

##### **4.1. Administrative system deficiencies**

- More than one-third of complaints are on administrative lapses and corrupt acts are perpetrated due to administrative system deficiencies.
- Strong indications that agencies are not progressively strengthening the administrative system against corruption
- Perception of improvement in control of corruption is mainly fueled by the fear of ACC, it is not the result of system strengthening against corruption by agencies – World Bank Governance Indicators 2013 Update and Transparency International CPI rankings for comparisons
- Hence, strengthening administrative system against corruption is seen as the key for sustainable or more effective means to control corruption collectively by agencies in the long run.

##### **4.2. Proliferation of trade licenses**

- There is proliferation of trade licenses (micro-trade) without actual businesses being established in the field (as of Dec 31, 2013: there are over 26800 industrial & services, 908 trade & over 4000 contract licenses – refer page 62 how corruption takes place in construction sector).
- During the reporting period, only one case related to construction sector was investigated. As invariably revealed in the investigations of construction works, the case has signaled non-enforcement of contract terms and conditions, bid rigging, bribery and collusion between contractors and civil servants are the common problems. The investigations have also revealed that: good number of license holders especially those involved in medium and small works can barely read and write in English, let alone knowledge on bidding processes. Such factors must also be affecting the quality of works.
- After a trade or a contract license is cancelled, a license in the name of another person is readily available or issued. Such uncontrolled proliferation of licenses without any control and monitoring mechanism is leading to rampant corrupt practices.

##### **4.3. Human resource constraints in ACC & OAG**

- Investigation is highly process driven (due diligence and process of law), information and time intensive, to be conducted by highly qualified, trained, experienced and skilled professionals
- Given the nature of responsibilities, no officials with experience at senior level join ACC while such existing officials leave the organization at regular frequency

- As a result, there is a vacuum at the senior position level, while fresh recruitment at lower level is done to bridge the manpower gap in number
- As a result, more than 60% of staff at ACC have less than 5 year experience
- As the cumulative effect, a huge backlog of cases has accumulated over the years to be investigated due to the shortage of senior, qualified, trained, experienced and skilled professionals
- Such a staffing trend undermines the viability of ACC as an important institution to spear-head the fight against corruption in the country through effective detection and investigation followed by prosecution for maximum deterrence
- Effective investigation alone is not enough, it must be followed by equally effective prosecution and adjudication
- Timely and effective prosecution is compromised due to shortage of prosecutors at the OAG, both in number and quality
- ACC has to provide out of necessity, back up services to OAG on big and important cases.

#### **4.4. Prolonged process of trial**

- Adjudication by courts must be timely to enforce the rule of law in the country – prolonged process of trials undermine the impacts of prosecution
- Although the judgment on most cases are being passed by the courts within 108 days of filing a case, there are some cases which had taken unreasonably longer duration. For example few cases have taken as long as 556 days to 791 days at the trial courts, and from 370 days to 401 days at the High Court.
- Four –tier courts and the appeal system take the minimum of three years for the final verdict to be passed with the condition that verdicts be passed within a year of filing the case at each court.
- Prolonged trials not only incur huge cost to the state exchequer and have an adverse impact on the efficient public service delivery (as the personnels on trial are mostly public servants) but also has a negative psychological impact on the individuals who may be proven innocent ultimately.
- While the appeal process cannot be denied, passing of judgments by special courts within a much shorter time frame is a possibility.

#### **4.5. Lack of established system for judgment implementation**

- There is no established system for judgment implementation, except the understanding that the judgments of the Judiciary must be executed by the Executive.

- Past judgments have been implemented on a case by case basis with committees formed of concerned agencies.
- Judgment implementation of several cases are pending years after the pronouncement of verdicts from the Supreme Court of Bhutan

#### **4.6. Lack of coordination among agencies**

- Agencies work in silos without coordination required by the inter-related nature of their responsibilities. This isolated nature of functioning by agencies has offered opportunities for corrupt acts due to non-sharing of information and other services among inter-related agencies – 4 cases presented amply illustrate lack of information sharing and coordination among regulatory/enforcement agencies. Difficulty in access to information is a general problem in the country.