

# ANNUAL REPORT 2011

## Nation's Conscience

*If You Care, You will Dare*



**Anti-Corruption Commission**

Although Bhutan has been once effectively brought under the beneficent influence of strict law and justice, it subsequently, on account of general corruption and laxity on the part of those in authority, became slack in all branches. If this should be allowed to continue, there would be no distinction between right and wrongdoing, no justice and without justice human beings cannot have happiness and peace.

- Zhabdrung Ngawang Namgyel



## Excerpt from His Majesty's Kasho (Royal Decree)

*Issued on 31st December, 2005  
by His Majesty the 4<sup>th</sup> Druk Gyalpo*

a strong foundation for the Commission to effectively carry out its functions and responsibilities.

The Chairperson of the Anti-Corruption Commission must discharge her responsibilities with utmost loyalty and dedication to the government and the people, unaffected by any consideration for those in positions of power and influence, showing full transparency and no discrimination whatsoever in the line of her work. The Anti-Corruption Commission must fulfill its responsibility of curbing and rooting out corruption through timely and effective checking on private utilization of public funds and persons engaged in unauthorized use of public resources. Towards this end, the Chairperson of the Anti-Corruption Commission is authorized to carry out investigations on any person in Bhutan, regardless of status or position, in the course of discharging her important responsibilities.”

“With the rapid pace of economic development in our country, there have been changes in the thinking of the people with the influence of self-interest leading to corrupt practices taking place in both the government and the private sector. If appropriate steps are not taken now to stop this trend, it will lead to very serious problems in the future, for both the government and the people, in our country with a very small population. In this regard, it is the responsibility of every Bhutanese to act against corruption in our country. At a time when we are establishing parliamentary democracy in the country, it is very important to curb and root out corruption from the very beginning. Therefore, it is imperative to establish the Office of the Anti-Corruption Commission before the adoption of the Constitution and build



# Annual Report 2011



Building an honest and  
responsible new generation



# Table of Contents

Page 1

Introduction

Page 3

Section 1: ACC's Performance at a Glance:  
Taking Stock

Page 11

Section 2: At the Core: People, Culture & Institution

Page 20

Section 3: Being Accountable: Performance Evaluation

Page 66

Section 4: Challenges

Page 68

Section 5: Conclusion



# INTRODUCTION

The fight against corruption is not only a paramount socio-economic development imperative but also vital in ensuring a vibrant democracy and ultimately a stable and secure nation. Much has been achieved but much more remains to be achieved in terms of behavioural change of people in offices of public trust and the citizenry in general and in terms of cultivating a deep sense of professional and natural responsibility and accountability. Citizens ultimately bear the brunt of bad governance. Oversight institutions have to be aggressively and purposefully proactive and collaborative, focused and result driven in strengthening the system of governance that values trust, justice and equity and catalyzes

behavioural change in the citizens and public servants.

In accordance with section 169 (1) of the Anti-Corruption Act of Bhutan 2011, which states “The Commission shall, as provided for in the Constitution, submit an annual report on its policies and performance to the Druk Gyalpo (King of Bhutan), the Prime Minister and Parliament,” the Commission is submitting its 5th annual report to the Parliament. The Report (i) highlights the anti-corruption policies and strategies, trends of corruption and its impact, challenges and opportunities and (ii) evaluates the performance of ACC in particular and agencies in general and offers an opportunity to the oversight institutions



to fix accountability for failure or non-performance. The report focuses on the annual work plans and implementation of specific policies, strategies, activities, challenges and recommendations within the larger framework of institutional development, public education, systems review and investigation of cases of corruption by agencies as well as the ACC. The report, in essence, will not only manifest ACC's drive or the lack of it but also the leaders' and the citizenry's will to fight corruption or the lack of it.

The period of reporting is from April 2011 to March 2012 (will also cover some activities of April 2012). The report is divided into 5 sections.

**Section 1** dwells on the general assessment of activities vis-à-vis the direction set for 2011. This year, besides the implementation status of ACC's corruption risk management outcomes and Bhutan's ranking in the Transparency International Corruption Perception Index, the Royal Audit Authority's management appraisal and financial auditing of ACC have also been included to illustrate ACC's performance. It also highlights the implementation status of parliamentary resolutions (this year, only those directly related to ACC have been submitted) and ACC's direction for 2012.

**Section 2** presents a general overview of the ACC's institutional development plan. It also highlights its human resource situation and

collaboration with its development partners.

**Section 3** supplements Section 1. It presents the mid-term review and details of ACC's annual performance in the broad service areas, viz. (i) Public Education & Advocacy (ii) Prevention, (iii) Legal and (iv) Complaints Management and Investigation, which also includes the status of RAA reports that it received during the reporting period.

**Section 4** briefly highlights the challenge of mainstreaming anti-corruption measures in the programs of agencies despite the government having adopted the National Anti-Corruption Strategy Framework in 2009, which essentially is a translation of the government's anti-corruption policy of "Zero Tolerance for Corruption." Every annual report highlights a challenge for deliberation in the Parliament and action thereof.

**Section 5** sums up Bhutan's success, most vulnerable areas of corruption, causes of corruption, critical anti-corruption measures and Bhutan's potential to be an anti-corruption champion, which should only be natural for the happiness champion.

It may be noted that unlike in the past, this report does not contain the commissioners' asset declarations, NACS implementation table and details of cases.

# SECTION 1:

## ACC's PERFORMANCE AT A GLANCE: TAKING STOCK



National Assembly of Bhutan

### In this Section

<u>General Assessment of ACC's Direction for 2011</u>	<u>3</u>
<u>Corruption Risk Management (CRM): Embedding Integrity in ACC</u>	<u>5</u>
<u>Management Appraisal and Financial Auditing (SDC funded Project)</u>	<u>7</u>
<u>Where does Bhutan Stand? Transparency International's Corruption Perception Index 2011)</u>	<u>7</u>
<u>Implementation Status of Parliamentary Resolutions</u>	<u>8</u>
<u>Which way? Direction for 2012</u>	<u>10</u>



# SECTION 1:

## ACC's PERFORMANCE AT A GLANCE: TAKING STOCK

### General Assessment of ACC's Direction for 2011

An important year-end event of the ACC is the critical reflection upon its performance of the past year, drawing lessons and understanding the challenges as it sets the direction for the subsequent year. Such a process that engages everyone is imperative for the health and growth of the institution.

The important overarching direction for 2011 was to continue work on building trust and confidence of the public in ACC.

The 2010 year-end reflection revealed that the Commission was overwhelmed by events. It was decided that in 2011 it would be in control of events and operate as planned. However, the same experience continued in 2011 too, only characterizing the nature of its mandate that often warrants immediate action. Planned activities, however, have been largely implemented.

The ACC has constantly endeavoured to institutionalize and professionalize internal and bilateral procedures in minimizing "personality-and-relationship" driven system of functioning. The Commission's focus on sorting out issues with key institutions

such as the judiciary and the Office of the Attorney General (OAG) in ensuring effective investigation and prosecution of corruption cases requires continuous dialogue and engagement. A system of coordination and cooperation through the signing of an "Understanding of Cooperation" with OAG is yet to be institutionalized. A draft has been shared with the OAG and will work towards formalizing it this year. Issues related to accessibility of court judgments and case files, challenges of seeking court orders, non-uniform treatment of convicts pending appeals, appellate reviews, additional charge by judges, inadmissibility of recording of statements, bail and bond, inter-jurisdiction transfer of detainees and validity of search/arrest warrant, implementation of judgment, administration of legal counsels' code of conduct, lawful interception and prolonged adjudication have been discussed with the judiciary (last being on April 5, 2012 at the judicial conference). The court procedures are expected to be further streamlined, strengthened and enforced uniformly.

Another priority for 2011 was training the new recruits and development of skills and knowledge on new techniques through attachment program. 19 people (2 appointed by RCSC) including 2 legal and 3 record assistants were recruited, building

ACC's total strength to 68 (including 15 support staff). Induction program on the ACC's vision, mission, values, ethical code of conduct and service standards, leadership, laws and operational manual, in-country and external trainings were conducted. Details are in Section 2.

The Commission's focus for the investigation was sophistication of services such as application of technology, integrating institutional values in performance evaluation of investigators, conducting mandatory training, accelerating mutual legal assistance with India, digitizing investigation reports and developing intelligence gathering procedure at all levels. A 2 week mandatory training was conducted for the investigators in Malaysia by the Malaysian Anti-Corruption Academy (MACA). Some level of in-house knowledge on surveillance and intelligence has been built through attachment, study visits and trainings. A framework on intelligence has been developed. External experts are assisting the ACC in building its intelligence infrastructure and capability. Digitization of reports is yet to be implemented. Dialogue on mutual legal assistance with India has been deferred for now. Integrating institutional values in performance evaluation of investigators had begun but has been shelved as the ACC employees are now governed by the Bhutan Civil Service Rules 2010, which may not accommodate change. Further, introducing additional professional and ethical standards for civil servants in the ACC may be unfair.

In 2009, the National Anti-Corruption Strategy Framework (NACS) was adopted by the Cabinet as a government document. Since then ACC's focus has been on its implementation by the stakeholders, both public and private sector. However, even after 3 years of its adoption, its implementation is sluggish for various reasons, primary reasons being lack of ownership and accountability. The ACC has developed a monitoring tool, which would be piloted this year and shared with the Committee of Secretaries (COS), the oversight authority for monitoring the implementation of NACS and similar authorities of the judiciary, legislature, armed forces, corporate and private sector, religious organizations and civil societies.

The focus on building in-house capacity on behavioral change programs, institution of integrity award and involvement of citizens saw modest results. A simple means adopted by the Commission towards behavioural change has been through its monthly coordination meetings where a staff member presents an issue for deliberation, contemplation and internalization. Sessions on ACC's Ethical Code of Conduct, teamwork and leadership were conducted in 2011. However, more substantial work needs to be done in the area. Development of ACC-RCSC-RIM partnership project on e-learning module on ethics and integrity management in bringing about behavioural change in public servants is underway. A concept paper on



instituting an integrity award has been floated widely for views/comments. On general awareness creation, only 4 gewogs of Bumthang Dzongkhag were covered and on procurement and contract management only Zhemgang Dzongkhag was covered besides the sessions on ACC's experiences taken up by the Commission as part of the certificate course on procurement offered to procurement officers at the RIM. Further, the ACC interacted with students and teachers of 19 schools and about 58 engineering graduates. Details covered in Section 3.

Investigations have to be fair and swift for which smooth flow/access of/to information is paramount. Networking and sharing of information with agencies through the use of ICT was a major focus for the year. However, in the absence of a strong policy, entrenched culture of territorialism and poor enforcement regime, no head-start could be made. It is a formidable task that will require the goodwill and consensus of all stakeholders and creation of a common platform and policies on information sharing and networking. The Commission itself has to develop persuasive plans and strategies and be aggressive in forging partnerships.

### **Corruption Risk Management (CRM): Embedding Integrity in ACC**

Corruption Risk Management is an important management tool used in minimizing corruption risks in agencies. CRM exercise was first piloted in the ACC on 31 March, 2010. 18 potential

corruption risks, their causes and 34 mitigation measures with timeline and responsible divisions were identified. Preferential treatment of cases/complaints by the Commission, abuse of authority by investigators, trading privileged information, bribery, manipulation of complaints, collusion, embezzlement, misuse of office resources and fuel and spare parts pilferage by drivers were identified as some of the important risks.

Monitoring implementation of the measures forms an integral part of the CRM process; the Prevention Division (PD) of the Commission does it on a bi-annual basis. The Commission also reviews the significance of risks and measures, which may result in revising the action plan. Altogether 5 reviews have been conducted till date, the most recent being that of April 2012. The implementation rate has increased from 67.6% (last review conducted on 24<sup>th</sup> August 2011) to 81% (details posted on the ACC website).

Complaints management framework and operational manual have been reviewed including the complaints' persuability factor. Investigation Management System (IMS) (implementation challenges are still there) and asset declaration log trail system have been instituted. Last year it was reported that the Commission would work towards building its administration and financial management system (AFD) as an island of integrity, which is also integral to CRM.

Some of the highlights of the intervention in AFD are: (i) *Financial management*: (a) budget and expenditure statements are uploaded in the shared folder in the first week of every month. This enhances transparency in fund utilization as it is subjected to the staff members' scrutiny. It also enables timely implementation of activities by the divisions; (b) salary is deposited in the staff members' bank accounts by the 25<sup>th</sup> of each month and pay slips are issued to the individuals on the same day as a check and for transparency; and (c) 80% of tour advance is paid immediately on receipt of duly signed travel authorization. Request for additional advance from the field is deposited in the requesting staff members' bank accounts. (ii) *Procurement*: (a) On receiving the office supplies, officers from the technical divisions are randomly picked to verify the receipt of stock and its quality. Supplies not complying with the samples are rejected; (b) payment towards supplies is made either immediately or not later than 2/3 days or 2 weeks for construction work. (iii) *Pool vehicle management*: (a) A COMPACT is signed with the drivers to manage fuel consumption and maintenance of vehicles. Average mileage of each vehicle is generated from several (3 to 4) replenishments. This mileage is "fixed" to be maintained (+/-5% for other factors) for every replenishment. Any shortage in the mileage is converted into quantity of fuel and prevailing price charged to the defaulter. Renewal of vehicle documents such as registration, fitness and emission is the responsibility

of the drivers and any late renewal charges is borne by the drivers. (iv) *Human resource management & development*: (a) Minutes of all human resource related meetings are signed within 24 hours and posted on the shared folder for all staff members to view and raise questions, if any; (b) training reports are reviewed by the human resource officer and implementation of the training recommendations are monitored (still being instituted). All in and ex-country trainings are updated immediately.

Building the AFD as an island of integrity has raised the standard of service delivery, has created room for dialogue and greater consciousness for integrity and rule of law. Creating an "Island of Integrity" requires conviction and commitment on the part of the implementers. Cooperation, positive feedback and understanding on the part of service recipients are also equally important. It will be the Commission's endeavour to ultimately build ACC into an island of integrity.

Review of ACC Ethical Code of Conduct (CoC) and development of communication and media strategy will be implemented before the end of the year. Internal audit for 2011 was not undertaken because of the auditing conducted by RAA.

The Commission will work towards achieving 100% implementation of the CRM outcomes before the next review i.e. October 2012. With the review, the second round of CRM may also be conducted.



## Management Appraisal and Financial Auditing (SDC funded Project)

Two audit reports were issued to the Commission in 2011, viz. (i) Management Appraisal Report on the operations of the ACC (RAA/AR/GGD(A-01)/2011/712, 15 March 2011) covering 2 years and 7 months, i.e. from 01 July 2008 to 31 January 2011 and (ii) Swiss Agency for Development & Cooperation (SDC) funded project “Institutional Development of the Anti-Corruption Commission” from 01 January 2010 to 30 June 2011 (AIN 9699).

A management appraisal report is issued to an agency by the RAA in lieu of its conventional reports when no serious issues are observed; however, a record is maintained for future reference. Issues raised by RAA were largely procedural oversights (Nu.3,89,582.00) and “avoidable” loss (Nu.39,347.00). Procedures relate to: (i) surrendering of cash balance in cheque and not in draft (Nu.34,578.00), (ii) wrong booking of travel outside the country under in-country travel (Nu. 70,200.00), (iii) payment without travel authorization (Nu. 32,500.00), and (iv) wrong booking of air ticket purchase under Project Letter of Credit account instead of Letter of Credit account (Nu. 252,304.00).

Two major items under “Avoidable” loss due to non-procurement of items from the lowest evaluated firms (Nu. 39,347.00) were: Nu. 11,274.00 that account for the price difference

between duplicate and original printer cartridges (lowest evaluated bid was for duplicate cartridge) and Nu. 22,700.00 relates to additional cost due to increase in the number of pages of the Asset Declaration Rules 2008 (Dzongkha and English).

The second RAA report states, “In RAA’s opinion, the financial statements present fairly in all material respects, the financial operations of the Project for the year ended 30<sup>th</sup> June 2011 and its fund balance as on that date in accordance with the Financial Rules and Regulations 2001 and the Project Agreement.”

Auditing is an important check on an agency’s integrity and efficacy in financial management. In its pursuit of excellence and trustworthiness, it is the Commission’s commitment to get a clean chit from the RAA.

## Where does Bhutan Stand? Transparency International’s Corruption Perception Index 2011 (TI-CPI 2011)

Transparency International released its CPI 2011 on 1 December 2011. CPI is a composite index drawing on corruption-related data by a variety of independent and reputable institutions. TI-CPI 2011 ranked and scored 183 countries. New Zealand (9.5) ranked 1<sup>st</sup> followed by Denmark (9.4) and Finland (9.4). In the 4<sup>th</sup> position is Sweden (9.3) followed by Singapore (9.2), Norway (9.0) and the Netherlands (8.9). Somalia (1.0) and North Korea (1.0) were ranked at 182 followed by Myanmar (1.5) and

**Table 1.1:** TI's CPI Ranking and Score for Bhutan

Year	Global Ranking	No. of participating countries	Score (0-10)	Asia Pacific Ranking	No. of Survey Used	Confidence Range
2006	32	163	6.0	7	3	4.1-7.3
2007	46	180	5.0	10	5	4.1-5.7
2008	45	180	5.2	9	5	4.5-5.9
2009	49	180	5.0	10	4	4.3-5.6
2010	36	178	5.7	7	4	5.1-6.6
2011	38	183	5.7	7	4	5.3-6.1

Afghanistan (1.5) at 180 (full results at <http://www.transparency.org>).

Bhutan was ranked 38<sup>th</sup> with a score of 5.7. In comparison to CPI 2010, Bhutan's ranking decreased by two places, but the score remained the same at 5.7. In CPI 2011, 3 new countries, viz. Bahamas, Saint Lucia and Saint Vincent entered TI's ranking above Bhutan. Puerto Rico which was ranked above Bhutan in 2010 fell below it in 2011.

Bhutan still maintains its 7<sup>th</sup> position out of 35 countries in the Asia Pacific Region. The region has countries that are on the top 10 in combating corruption like, New Zealand, Singapore and Australia. Only one-third of the countries ranked score above 5 points out of 10.

As reported last year, Bhutan remains at the vulnerable point of turning in any direction, i.e. either declining phase of corruption with sustained and visible tough action or resurgence of corruption with a highly corruption-tolerant environment. It reminds everyone, in particular people in positions of power, the urgent need for greater conscious efforts in bringing corruption under the controlled phase.

The Commission will continue to spear-head the fight against corruption but systems and institutional strengthening have to ensure that adequate checks and balances are put in place. Check and balance at every hierarchical level is crucial and must be strengthened and enforced for Bhutan to grow from strength to strength in controlling corruption and truly signalling that it will not be tolerated and indulgence in it can be costly and risky.

### Implementation Status of Parliamentary Resolutions

The Commission in its 4<sup>th</sup> annual report highlighted the need for establishing an effective reporting and monitoring system by the parliamentary committees to ensure implementation of parliamentary resolutions and that the ACC should not be expected to fulfill the important task. The 7<sup>th</sup> session of the National Council discussed the need to hold the parliamentary committees responsible for the same.

In its earlier reports, the Commission made submissions on all the resolutions of the parliament as most of them pertained to good governance in

general. However, this report will only reflect the implementation status of those resolutions that pertain to the ACC directly. This spirit is in the larger scheme of mainstreaming anti-corruption measures, where agencies also have to take responsibility and be accountable.

### **7<sup>th</sup> Session of the National Assembly (28/6/2011)**

The ACC will continue conducting awareness campaign on prevention and reduction of corruption.

*The Commission conducted general advocacy programs in only 4 gewogs in Bumthang and interactive sessions with 8,500 teachers and students in 19 schools during the reporting period. Interactive sessions with engineering graduates (MoWHS) and public officials and business community of Zhemgang Dzongkhag (on procurement) were also conducted. Further, ACC conducted sessions on its case studies and experiences for procurement officers as a part of the procurement certificate program offered at the RIM.*

A system of penalizing the defaulters for neglecting his/her responsibilities, found during the process of proactive intervention by the Commission, should be established to avoid repetition of instances in future.

*Repetition of instance by the same individual or group of public servant is an aggravating factor while referring cases of corruption for prosecution. This*

*has been enshrined in the “Prosecution Referral Guidelines” of the Commission.*

During the process of investigation, if the RAA suspects serious corruption in the agency, the RAA will forthwith forward the case to the Anti Corruption Commission for further action.

*Such understanding between RAA and ACC is already institutionalized (ref page 72, 2010 Annual Report).*

### **7<sup>th</sup> Session of the National Council**

Government to consider incorporating corruption and ethics in schools and higher education curriculum based on our traditional value system of “Tha-Damtsi” and “Ley-Jumdey” as a long term strategy to fighting corruption.

Recognizing the importance of value education in schools in preventing corruption, the ACC has initiated a research on “integrity and value education in schools.” The research findings will help determine interventions which will be discussed with the stakeholders. In future, the ACC-RCSC-RIM partnership project on e-learning module on ethics and integrity management that has been launched initially for the civil servants is planned to be extended to the education system.

*The Education Ministry’s “Infusing GNH Values/“Greening of Schools” initiatives is also integral to the resolution.*

The government and ACC should conduct training and workshops on



utilization of budget and related procedures in the local government. *In 2011, the Department of Local Governance (DLG) conducted orientation program for the newly elected local government officials and the Gewog Administrative Officers in various dzongkhags. ACC participated in the program with 10 dzongkhags. It also conducted sessions on contract administration and other related matters for the local government officials, contractors and the civil servants of Zhemgang Dzongkhag. Till date, ACC has conducted sessions on contract administration in 11 dzongkhags.*

National Council (NC) to monitor the implementation of the NACS and to identify corruption risks in the committees.

*The ACC will collaborate, if so desired, with NC in monitoring the implementation of the strategy. However, till date no such indication has been received from the Council.*

### **Which Way? Direction for 2012**

The 2011 year reflection highlighted the need for broad and strategic guide instead of a list of activities. The ACC will continue to build an effective and credible institution through (i) minimizing internal conflicts and enhancing cohesion and performance, (ii) synergizing the 3 pronged strategies of investigation, prevention and public education through restructuring, (iii) ICTization in ensuring greater efficiency, transparency and security, and (iv) acquiring competencies and institutional

sophistication.

The Commission continues its conscious drive towards minimizing corruption. Challenges of general lack of commitment in taking hard decisions with regards to improving systems, to bring behavioural change in public servants and to take action against corrupt individuals and their supervisors still persist. Critical and objective in-house stocktaking by the Commission is a regular process towards strategizing and re-strategizing its operations. The Commission has to work on building partnership in establishing effective system of understanding, cooperation and coordination that is tempered with trust and confidence.

## AT THE CORE: PEOPLE, CULTURE & INSTITUTION



Institutional Development Plan (Plan)	11
Recruitment and Retention	13
Human Resource Development and Capacity Building	14
Corporate Culture (internal factor)	15
Making Difference Together: International Networking & Development Assistance	16

# SECTION 2:

## AT THE CORE: PEOPLE, CULTURE & INSTITUTION

### **Institutional Development Plan (Plan)**

The long-term vision and mission of the ACC is to work towards a corruption free society by leading by example, achieving excellence in partnerships and mainstreaming anti-corruption strategies in public and private organizations. ACC ultimately hopes to achieve a high level of integrity in Bhutan where only few corruption cases occur and require investigation, thus allowing it to concentrate with greater vigour on continuously strengthening the preventive systems and educating the citizens on ethical and anti-corruption values. To achieve this, the ACC needs to succeed in changing the current environment that still tolerates and allows corruption to take place. For the change to occur, the ACC has to be strong and effective.

The ACC needs to overcome two challenges to attain its vision and mission. First, the country is a young democracy with fledgling institutions. Integrity and accountability functions are yet to be appreciated and fully embraced by the public sector. At this stage, these functions remain primarily outsourced to the ACC and other dedicated agencies and have not yet been streamlined across sectors and governance system. Second, the ACC itself is a very young institution and

struggles with typical organisational and capacity constraints.

In pursuance of section 26 (2) of the Anti-Corruption Act 2011 (ACA 2011), which commits the ACC to prepare five year plans of the Commission, including mid-term and strategic plans; more importantly in ensuring continuous development of the ACC's organisational and operational capacity to operate in a sustainable manner, an institutional development plan has now been developed. It provides a guideline for organisational and operational strengthening of the ACC enabling it to overcome these challenges and to function fearlessly and effectively. It also refers to some of the best practices of the region's anti-corruption fraternity.

The Plan (i) provides a brief overview of the ACC and the legal and institutional environment in which it operates, (ii) analyses the ACC's current strategic, administrative and operational strengths and weaknesses as well as external threats and opportunities, and (iii) formulates key institutional development goals and action items in response to these internal and external factors. The institutional development goals are presented in the form of an action plan specifying activities, goals and expected outcomes, measurable



outputs, timeframes, responsibilities and where applicable support needed. By outlining expected outcomes and outputs, it will be a key tool for the Commission to benchmark and evaluate its progress towards achieving its short, medium and long term objectives both in terms of its own institutional and organisational capacity and its success in influencing the integrity of the public sector and society at large.

The developmental goals are (i) organisational strengthening and development (*recommends reviewing and adopting a new organizational structure so as to accord ACC the independence in terms of organizational structure and human resource management and building a strong corporate culture*), (ii) recruitment, retention and human resource development (*recommends having separate service conditions and its own rules to have more independence in human resource management. Other factors include seeking additional benefits for the staff, employment on deputation and contract to solve the problem of staffing. The need to develop and implement human resource plan to have a clear understanding of the staffing needs and conduct training needs assessment have also been recommended*), (iii) strengthening investigative capacity (*revise the operational manual in line with ACA 2011, undertake specialized training for the investigators, design and communicate the ACC's investigative policy with the general public, establish a system to report on status of complaints and establish surveillance*

*and forensic framework*), (iv) enhancing prevention and public education functions (*conduct systems review, both proactive and reactive, promote accountability mechanisms at the highest political and public service levels, develop media and communication strategy and develop monitoring tool for the implementation of NACS*) and (v) engaging in strategic partnerships (*strengthen strategic alliances, both nationally and internationally*).

Works on some of the above areas have already begun. Organizational restructuring of the ACC has been in progress for some time now. Of the 4 restructuring options, sectoral approach which merges the 3 primary functions has been adopted. The approach looks at fighting corruption comprehensively from a sectoral perspective. The proposed restructuring based on this approach has several organizational, functional and human resource based advantages. To name a few, it involves a relatively flat organization; fosters greater synergies between prevention, education and investigation programs lending to a more holistic approach to fighting corruption; creates opportunities for thematic specialist skills development; enhances succession planning; and affords interchangeability of roles of staff.

The approach also has some disadvantages and challenges. It will be human resource intensive and will require substantive budget for capacity development. Due to the huge backlog of complaints to be

investigated, prevention and public education programs may be undermined. Conversely, there are also risks of slowing down investigation. There is also an inherent risk of unequal work load. External experts have also been consulted on the proposal and have received mixed reviews. As of now, such a model does not exist at all in the anti-corruption fraternity.

The proposal looks at having about 14 sectors with a department for corporate services and envisages a strength of 123 personnel. If this materializes, the ACC will be resourced to be more effective. Preparation for its implementation is underway. It will be discussed with the Royal Civil Service Commission (RCSC). For the new structure to succeed, careful planning, close monitoring and coordination and flexibility for change are highly critical. It demands high level of management skills and acumen. It will be implemented in phases, spanning over 3-5 years.

The Plan will be posted on the ACC website and published soon. The Asian Development Bank (ADB) provided the Technical Assistance (TA) for its development. TA has also been mobilized to assist the Commission in implementing the Plan.

### **Recruitment and Retention**

The challenges of recruitment and retention have been highlighted in all the ACC reports. Recruitment of in-service civil servants has been a serious challenge. The Commission

recruits young graduates and trains them to be professional anti-corruption cadre. During the period of reporting, 19 staff members (2 appointed by RCSC) were recruited, taking the staff strength to 68. The staffing plan for the 10th Five Year Plan has been more or less achieved. The Public Education Division now has 5 officers (3 last year), Prevention Division has 7 (5), Investigation Division has 27 (including 2 record assistants) (of 16 last year one resigned) and the Legal Division has 2 (of 3 last year, 2 resigned). Chief prevention and chief legal officers' posts are still vacant. Policy and planning and administration and finance divisions are fully staffed as of now.

The quest to get the best through fair, transparent and professional recruitment system always drives the Commission to establish an effective system of setting clear criteria (within the limits allowed by the civil service rules), consistent evaluation, selection and communication processes and grievance redressal. Effort is also made to adapt international best practices. It always seeks to review and streamline routine recruitment processes through such measures as standardising and categorising interview exam questions and developing standard job interview questionnaires and template letters to cover the various correspondence needs in the course of a recruitment process. It will also explore further possibilities of outsourcing recruitment process. Efforts are also being made to put in place a system of integrity checks of its recruits. To further

professionalise recruitment, officers deployed for interviewing candidates will receive appropriate training and/or coaching by human resource professionals experienced in working with anti-corruption agencies with similar challenges in countries with similar characteristics.

A major challenge that the ACC faces and will continue to face is retention of good professionals, which has to be addressed holistically. In future, a structural change may be required in addressing the important issue sustainably. During the period of reporting, 3 officers resigned from office (family obligation, further studies and better opportunity in the corporate sector).

To further strengthen the smooth functioning of the ACC's critical human resource, efforts are being made to institutionalise regular and open communication with the RCSC.

### **Human Resource Development and Capacity Building**

The Commission has to develop a strategic human resource plan indicating positions required to fulfil its mandate and program, a profile and skills requirements for each of these positions, matching existing staff members with positions and identifying remaining needs for hiring new staff members and/or for up-skilling existing members, identifying positions that are particularly vulnerable in the event of a staff member resigning and develop succession plans for these positions, planning recruitment and

training needs and succession planning needs with the training needs assessment. Meanwhile, continuous investment is being made in building knowledge and skills capital on a priority basis.

Human capital development is a major program of the 10<sup>th</sup> Five Year Plan. During the period of reporting, 31 officials attended various trainings; participated in seminars/workshops (16 occasions), covering subjects on institutional integrity management, risk management, productivity management and other courses. Some notable program undertaken during the period of reporting are the mandatory investigation training conducted by the Malaysian Anti-Corruption Academy (MACA) for 14 investigation officers, the chief command course for investigators conducted by the Independent Commission Against Corruption, Hong Kong and the post graduate certificate in corruption conducted by Hong Kong University.

Seventeen officials attended various in-country courses on procurement (Certificate in Procurement Compliance) and information management. A 3 day training on the operational manual was conducted for 47 members by the senior ACC officers, which was followed by a 2 day training on investigative techniques and interrogation skills conducted by the FBI (Federal Bureau of Investigation US) officials in which 3



police officers also participated. These trainings are expected not only to equip the officials with the necessary tools to investigate cases of corruption but also facilitate in the smooth transition to the sectoral approach of fighting corruption. 35 ACC officers, auditors/officials from RAA, Office of the Attorney General (OAG), Royal Monetary Authority (RMA), corporations and other agencies have been trained in financial management, forensic accounting and fraud and corruption red flags by the World Bank resource persons.

### Corporate Culture (internal factor)

Work overload, performance pressure, high behavioural and professional standards and perceived inequalities among staff members and teams are some factors that affect the ACC's recruitment and retention rate. The UNDP/UNODC survey of 2009 found that the volume of work weighed heavily on a majority of the staff and was a key reason for the low retention rate. The heavy workload is primarily a result of the constant understaffing as well as of the generally difficult and complex nature of the work. This situation is expected to improve as the recruitment rate increases following proper human resource planning and management. In addition, the Commission will continue to ensure that performance expectations and work plans are in line with the actual staff strength and skills.

A measure that would help staff in dealing with high work pressure and work expectations is a more performance-based human resource management to the extent permitted by the civil service rules and the available remuneration and promotion structures. Nonetheless, building onto the existing basic performance evaluation under the civil service rules, the Commission will introduce a performance management tool based on key performance indicators (KPI). The 11<sup>th</sup> Five Year Plan's requirement of agencies to develop their key result areas (KRA) and KPIs will be cascaded down to the levels of departments/divisions, teams and individuals. Linking the individual KPIs to the different levels of organisational KPIs is expected to steer individual awareness and performance towards the fulfilment of strategic organisational goals, giving the individuals a sense of their importance to the organization's achievements. Where feasible, individual KPIs will become part of the performance evaluation. In addition, performance management should ideally be linked to remuneration to reward staff for outstanding performance, though this may be a challenge at present as the ACC is under the remit of the Civil Service Act 2010 and BSCR 2010. An expert guidance will be imperative for this important initiative, a necessary shift in organizational culture.

In addition to the high performance standards, the high behavioural standards in the ACC also place considerable pressure on the staff. The

professional behaviour of the anti-corruption cadre has to be beyond reproach. The high ethical and integrity standards of the ACC should be a source of pride for the staff themselves. However, it must be supported by a corporate culture that motivates and encourages them to identify with the agency and take pride in its distinctive characteristics.

An important measure towards institution building and fostering corporate culture is taking retreats. Till date 3 retreats have been organized, one confined to investigation. Retreats offer the opportunity to reflect on the institution's vision, mission, values, service standards and critically evaluate individual and collective effort in consciously internalizing them, enhance teamwork, communications and generate positive changes in individual behavior and organizational culture. Every member from drivers to the chairperson is encouraged to engage actively in the reflection and synergizing processes.

The January 2012 Samtse retreat saw major work in the revision of the Operational Manual 2008 (standard operating procedures) corresponding to the provisions of ACA 2011 (ensures due process of law and professional conduct of the members), better understanding of self, others and the institution, greater cohesiveness and renewed vigor and zeal in the staff. Leadership sessions, meditation, mock panel discussions and outdoor events enriched the retreat.

The other important outcome of the retreat was the formation of a sub-committee to work on human resource related issues in order to ensure greater professionalism, transparency, accountability and fairness. A manual that outlines a step-by-step process of carrying out human resource related activities has been drafted and discussed in the first monthly coordination meeting of 2012. The draft will be further reviewed before it is endorsed by the Commission.

The 2008 Staff Welfare Scheme has been revitalized and streamlined for clarity and greater sustainability.

### **Making Difference Together: International Networking & Development Assistance**

#### **International Networking**

The ACC, since its inception, has been making continuous efforts in establishing and strengthening linkages with other anti-corruption agencies in the region and beyond. Bhutan is recognized as one of the progressive countries in fighting corruption. The effectiveness of the ACC in curbing corruption in the country, in a short span of over 6 years, has gained recognition amongst development partners and counterparts in the region and beyond. ACC received proposals on fielding delegations to learn from its experiences. In 2011, 19 delegates from 3 countries and international organizations have visited the ACC.

In July 2011, ACC received a 15 member high level delegation from the anti-corruption agencies of the Democratic Republic of Timor-Leste and the Republic of Maldives for a 4 day “South-South exchange program on effective anti-corruption agencies.” The visit was part of the south-south engagement, sponsored and coordinated by the UNDP Asia-Pacific Regional Centre in Bangkok. The anti-corruption agencies of Maldives and Timor-Leste are among the youngest in the Asia-Pacific region, established in 2009 and 2010, respectively. The exchange program allowed the young anti-corruption agencies of 3 small countries to share experiences and the best practices in the areas of investigation, prevention and public education. During the 4 day study visit, the delegates also interacted with the officials of key government agencies.

Second such study visit was organized for a 4 member delegation from the Directorate on Corruption and Economic Crime (DCEC) of the Republic of Botswana in November 2011. DCEC is considered as the most effective anti-corruption agency in the African continent. The delegates had specific interest in learning investigative and public educational strategies of the ACC. Separate interactive sessions were organized to share and discuss on the experiences and best practices of investigation and public education programs of the ACC. To understand the working relationship of the ACC with other law enforcement agencies, the delegates also interacted with the officials of the judiciary, RAA and OAG.

Bhutan has been a member of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific since 2007. In September 2011, ACC participated in the 16<sup>th</sup> Steering Group Meeting (SGM) and the 7<sup>th</sup> regional conference of the initiative held in New Delhi. Bhutan volunteered for the pilot Country Scoping Exercise in 2014 either in forestry and environment sector or personnel management. This forum has helped the ACC in building working relationships with other anti-corruption agencies and development partners.

In October 2011, ACC was invited to participate in the “Oslo Governance Forum: Participation, Accountability and Democracy.” Its general anti-corruption experience with a focus on assessment for anti-corruption strategies was presented at the forum. The main focus of the forum was participatory governance assessments and social accountability as a means for strengthening democratic governance at the national and international level.

Visits were made to Independent Commission against Corruption (ICAC) and Police Integrity Commission of New South Wales (Sydney) and Crime and Misconduct Commission of (Brisbane) Queensland. These enriched ACC’s knowledge on surveillance and intelligence and its infrastructure. Based on the skills and techniques acquired from the visits, a surveillance and intelligence framework has been formulated.

The ACC has also been invited to share its experiences in asset



declaration and its administrative infrastructure, investigation management system, UN Convention against Corruption self assessment exercise and some of its investigative findings particularly in the forestry and health sectors. Participation in various international fora and visits has paved the way for greater cooperation with premier institutions. The ACC is also exploring other bilateral and regional cooperation for greater efficiency of its anti-corruption drive.

### Development Assistance

Governance and anti-corruption are global developmental priorities. The ACC has always enjoyed the goodwill and generous support of development partners. Government of India (GoI) and Swiss Agency for Development and Cooperation (SDC) are its key development partners in the 10<sup>th</sup> Five Year Plan.

### Government of India (GoI)

Construction of the ACC office building, which started in November 2009, is supported by GoI with a commitment of Nu. 68.05 million. The ACC will operate from the new premises by mid 2012. 99% of the civil and electrical works have been completed with an expenditure of about Nu. 50.00 million.

### Swiss Agency for Development and Cooperation (SDC)

Major support to ACC is provided by the SDC through the project "Support to the Anti-Corruption Commission." The overall purpose of the project is to strengthen institutional capacity of ACC. The expected impact of the project is (i) society widely applies high principles of public life and acts against corruption, (ii) anti-corruption effectively mainstreamed in sectoral plans and in public and private institutions, (iii) acts of corruption deterred by effective investigation, conclusion and prosecution without fear and favour, and (iv) ACC is a credible, effective and sustained institution.

The total budget for the project is Nu. 116.00 million (2.6 million CHF). Over 39.2% of the funds have been spent.

The mid-term review of the project was conducted in January 2012. It assessed the project's effectiveness, efficiency, relevance and sustainability issues, including achievements and challenges faced in relation to the 4 impact areas. Though there was under spending of funds, implementation of project activities was in good progress. The review provided strategic direction for the remaining phase of the project and made several recommendations on fund re-appropriation. The project is expected to close by the end of 2013.

## Danida

The ACC has once again received support from Danida for developing the e-learning module on ethics and integrity management to foster ethical behavior in the public servants. Its cost is Nu. 8.50 million (1 million Danish Kroner). It is an ACC-RCSC-RIM partnership project. Major portion of the support is technical assistance provided by the Global Advice Network with some recurring costs disbursed to the ACC. The training module has been designed and hardware procured. Capacity development of focal persons in agencies is underway. Over 52.9% of the funds have been utilized. The project will close in 2013.

Procurement of consultancy services is in progress. Full implementation of the activities is expected to commence by the end of May 2012 and will be guided by the multi-sectoral Project Steering Committee. The project will end in December 2012.

## Asian Development Bank (ADB)

The long term institutional development plan of ACC has been developed with ADB assistance. Technical assistance (TA) of Nu. 15.00 million (USD 300,000) will support ACC in (i) conducting corruption vulnerability diagnostics in 4 selected agencies/sectors to strengthen systems and procedures, (ii) training ACC officials and other 4 agencies in operations/change management to enhance efficiency of the organizations, (iii) training professionals from the ACC and other accountability agencies in forensic accounting, fraud audit, net worth analysis, and other investigative topics and (iv) developing media and communication strategy for the ACC.

# SECTION 3:

## BEING ACCOUNTABLE: PERFORMANCE EVALUATION



Forging partnerships with  
Civil Society Organizations

### In this Section

Mid-term Review of Annual work Plan (July 2011-February 2012)	20
Public Education Services: Awakening the Citizens and Enlisting their Support	21
Prevention Services: Is Better than Cure	28
Legal Services: Rule of Law	37
Investigation: Combating Corruption Fearlessly	40



# SECTION 3:

## BEING ACCOUNTABLE: PERFORMANCE EVALUATION

The ACC has an important mandate. Fulfilment or non-fulfilment of its mandate has far reaching consequences. Therefore, for it to perform well it demands motivated and good professionals, which in turn demands a dynamic and progressive organizational culture. The Commission, since inception, has been committed to building an organizational culture that instills in its staff a deep sense of ownership and responsibility in setting high behavioural and professional standards in fulfilling their important mandate and inspires and motivates staff to be creative and achieve excellence. Incorruptibility of the Commission and its staff is paramount. Robust internal and external performance evaluation and effective accountability systems have to be established. The constitutional requirement of the submission of ACC's annual report to the Parliament is such a mechanism. Public scrutiny of ACC's performance is crucial.

### **Mid-term Review of Annual Work Plan (July 2011- February 2012)**

The mid-term review was conducted in February 2012 (covering 7 months). With the amendment of the Anti-Corruption Act 2006 and enforcement of the Asset Declaration Rules 2012, 60% of the planned activities of the legal services have been completed. Finalization of the revised Gift Rules 2009 and the draft Debarment Rules

will be completed as planned. However, follow-up on the UNCAC self assessment implementation matrix will spillover in the next work plan.

In the public education and advocacy services, only 30% of the planned activities have been completed because of the non-implementation of technical sessions with 10 ministries and advocacy program having been conducted only in 4 gewogs against the target of 50. This is attributable to understaffing and other external factors such as the local elections. However, advocacy product development is in progress; weekly inserts have featured in Kuensel to create topical awareness on relevant provisions and sections of ACA 2011; development of e-learning program on ethics and integrity management is also progressing well. As opposed to the promotion of islands of integrity in schools, 'integrity clubs' will be created to raise awareness on corruption and garner support of the youth in fighting corruption. Technical sessions with 2 ministries will be conducted before June 2012.

In the prevention area, only about 40% of the planned activities have been completed. The division has been operating without a chief for more than a year. Against the target of 4 system studies, both proactive and reactive, 3 have been conducted in housing allotment (merged with CRM

exercise), refundable and non-revenue deposits and management and implementation of HIV/AIDS program. Monitoring of the implementation of NACS has not been done. Only 3 corruption risk management (CRM) sessions have been conducted against the target of 15. However, monitoring of the implementation of the CRM recommendations is in progress. Sensitizing on the declaration of assets and liabilities and training of the focal persons have been completed. Understaffing has been the main challenge.

About 40% of the planned activities in investigation have been completed. Against the planned target of investigating 20 cases in the financial year, 13 cases were investigated of which 3 were forwarded for prosecution. However, it has to be noted that while absolute number target has not been fulfilled the scope of some of the cases have been huge. Full operationalization of the investigation module of the Investigation Management System has not been achieved. This will be taken up as a priority during the remaining period.

Work on building regional networking has not been carried out as greater understanding of possible collaboration with each potential institution has to be established.

The overall progress of the work plan is about 51.6%. The review reveals targets being incongruous with staff strength and divisions being overwhelmed by events. However, with greater efforts and increased staffing,

70-80% of the planned activities are expected to be implemented by the end of the period.

The financial achievement of the work plan is 53.81%. It is low largely due to the delay in the construction of office building. Most of the activities (procurement of equipment and furniture) are under progress and effective and efficient utilization of budget is expected by the end of the period.

### **Public Education Services: Awakening the Citizens and Enlisting their Support**

The Commission has the sacred duty to empower citizens in fulfilling their fundamental duties to uphold justice and to act against corruption and act in the aid of law (Article 8(9) & (10) of the Constitution). Information dissemination and education of general public about corruption and its costs and anti-corruption measures is a step towards that and also as provided under section 41 of ACA 2011. Public education services has 2 pronged approaches, viz. the advocacy and awareness program that creates topical awareness on corruption and the behavioral change program that fosters ethical culture and behavioral change in the Bhutanese society as a long term sustainable measure against corruption.

## Advocacy and Awareness Program: Increasing the Social Base in the Fight against Corruption

Citizens' and public servants' engagement through awareness is pivotal to the fight against corruption. For effective implementation of an anti-corruption strategy, it is essential for the public to be informed and made aware of corruption and anti-corruption measures so that there is change in both the attitude of the public towards the government and the ways in which access to public services is enjoyed. Information and awareness raising programs have been conducted for local government officials, schools and institutes. The program was delivered through interactive sessions, panel discussions and through mass media.

### Interaction with Local Government Functionaries

Local government, as a service-delivery system that is the closest to the public, shapes the public opinion on not only local government, but also the government as a whole. The impact of corruption is much more serious in the remote and rural areas as rural people have less access and limited choice of delivery of public services; far less aware of policies, their rights and even lesser courage to speak up for their entitlements. Government is the main provider of public services like health, education, drinking water, electricity, transport and other outreach programs and facilities.

Corruption in the delivery of these services directly affects the poor, vulnerable and marginalized people. Therefore, it is important to institutionalize efficiency, transparency and accountability in the local governments and educate and empower people to make the service providers accountable.

General advocacy program was conducted in 4 gewogs of Bumthang Dzongkhag. A total of 197 local government leaders, civil servants, contractors and other business people attended the program. Further, in collaboration with the Department of Local Governance, 4 interactive sessions with 325 *gups*, *mangmis* and gewog administrative officers of Chukha (now called Ngeduptse Dzong), Dagana, Gasa, Haa, Paro, Punakha, Samtse, Tsirang, Wangduephodrang and Thimphu Dzongkhags were conducted. Emphasis was laid on corruption being increasingly decentralized with corresponding decentralization of greater authority and resources to local government, especially with weak monitoring and accountability systems in the local governance system and the need to go beyond what is prescribed in law to suit the realities of local situation and people's needs.

A day long interactive session was conducted with 150 Dzongkhag *Tshogdu* members, civil servants, *mang aps*, *tshogpas*, gewog administrators and local business people of Zhemgang Dzongkhag. They were not only reminded of the constitutional duty of every Bhutanese to act against

corruption, but also sensitized on the forms of corruption (complaints against the local government) in the local government and were advised to exercise due diligence in discharging their duties to avoid such complaints against them.

### **General Interface: Thematic Interactive Session**

On separate occasions, thematic interactive sessions were carried out with different target groups.

### **Certificate in Procurement Compliance: Perspective on Public Procurement - Sharing ACC's Experiences**

Bhutan may be losing over Nu. 4.6 – Nu. 5.34 billion annually to corruption (in works alone) in the procurement sector. Majority of ACC's investigations are related to procurement. In a bid to enhance the capacity of procurement officers, the Public Procurement and Policy Division (PPPD) of the Ministry of Finance has instituted a 5 day training on "Certificate in Procurement Compliance" at RIM. "Perspective on Public Procurement: Sharing ACC's Experiences" is an important and integral part of the course. ACC has contributed to training 582 procurement officers during the reporting period.

### **Leadership Program for Senior Armed Force Officers**

A presentation captioned "*Leading by Example*" was made at the Leadership

Program for senior officers of armed forces conducted by the Institute of Management Studies. "*Leading by Example*" authenticates a true leader. It inspires, instills trust, motivation and teamwork. The participants were informed that the role of a leader is to create an organizational culture that places people in the best position to achieve individual and organizational aspirations. A leader must ensure that the organization has a sense of purpose and inspire people to share that purpose and perform. A leader has to be humble, decisive, fair, persevering and optimistic, must have the courage to deal with tough issues, ready to make sacrifice and spread confidence.

### **The National Graduate Orientation Program (NGOP): Engaging Young Leaders**

The Commission met with 1698 graduates at the 2011 NGOP. Noting its theme of "*Meet to lead: Connecting our young leaders*," the crucial role of leadership was emphasized. Leadership meant being concerned and making changes instead of waiting for others to change and bring about change. The graduates were informed that the well being of the nation depended on every Bhutanese performing their duties with integrity, trust, honesty and fairness and therefore, they were implored to imbibe and live by those values.



### **Engineering Graduates' Orientation Program: Nation Builders**

The Commission interacted with 58 engineering graduates (35 junior engineers, 18 civil engineers, 2 ICT graduates and 3 architects), who were appointed to various departments within the Ministry of Works and Human Settlement. They were informed that public procurement was highly prone to corruption and that they must resist the temptation of short term gains. As they would be involved in the procurement of works, goods and services, they were asked to exercise caution and due diligence in the discharge of the official duties right from the onset of their career.

### **Cultivating the Grace of Mind: Building an Ethical Society**

Children as the hope and future of a country, it is very important to mould them with values of trust, honor and dignity, honesty, fairness, sacrifice and courage that underpin Gross National Happiness. Advocacy sessions were conducted in a number of schools to inform the school community about the importance of moral values, character and the need for them to be a catalyst in bringing about behavioral change in their families, classrooms, schools, communities and ultimately society at large. Interactive advocacy sessions were conducted in Jakar and Sonam Kuenphen Higher Secondary Schools and Chumey Middle Secondary School in Bumthang; Gyalpozhing and Mongar Higher Secondary Schools in Mongar; Sherubtse College, Jigme

Sherubling and Rangjung Higher Secondary Schools, Trashigang and Kanglung Middle Secondary Schools, and Ranjung Vocational Training Institute in Trashigang; Damphu Higher Secondary School and Mendrelgang Middle Secondary School in Tsirang; Yangchenphu, Motithang and Kelki Higher Secondary Schools and Lungtenzampa Middle Secodnary in Thimphu. The program was attended by some 8,500 teachers and students. Teachers and students were informed that corruption is about erosion of values of contentment, trust, honesty, integrity, harmony and confidence; corruption inherently is about the behavior and character of people and not weak systems which is simply a means to perpetrate corrupt behavior. Being a good human being by upholding honesty and integrity is the start of the fight against corruption which must come from within an individual (self).

### **Youth Leadership Workshop: Inspiring Bhutanese girls- Creating a New Generation of Leaders**

The ACC also actively participated in the Youth Leadership Workshop organized by KCD Productions. Four regional workshops conducted in Thimphu, Tsirang, Bumthang and Trashigang brought together over 600 female students to discuss leadership and interact with some senior women public servants.

## Dissemination of Information through Mass Media

The ACA 2011 was distributed to all private and public agencies and also posted on the website. The abridged version of important provisions of ACA 2011 was disseminated through 23 weekly inserts in Kuensel under the banner “Know Your Anti-Corruption Law.”

A total of 23,000 copies of information brochures on “Conflict of Interest”, “Corruption Risk Management”, “Island of Integrity”, “e-Learning on Ethics and Integrity Management in Civil Service”, “Reporting Corruption and Information” were printed and are being distributed.

The ACC’s website is also a medium that is capitalized to inform public on important ACC events, notification, circulars, articles on regional and international corruption highlights and research findings and to engage the public in drafting and reviewing laws, among others.

## International Anti-Corruption Day & National Anti-Corruption Week: Collective Effort

International Anti-Corruption Day (IAD) has been observed annually on December 9 since the passage of the United Nations Convention Against Corruption by the UN General Assembly on 31 October 2003 to raise awareness of corruption and of the role of the Convention in combating and preventing corruption.

Section 3

Bhutan has been commemorating the event since 2004 (under the auspices of RAA); December 10th–17th has also been observed as the National Anti-Corruption Week (NACW) since 2006.

Bhutan’s theme for the IAD 2011 was “Fostering Ethical Culture in Public Service through Partnership.” A series of program was implemented to commemorate the Day. Recognizing the important role of civil societies in fighting corruption, an ACC-CSO partnership program was organized wherein 17 CSOs participated. The ACC signed Memorandum of Understanding with 6 civil society organizations, viz. Tarayana Foundation, Bhutan Centre for Media and Democracy (BCMD), Respect Educate Nurture Empower Women (RENEW), Association of Bhutanese Tour Operators (ABTO), Guide’s Association of Bhutan (GAB) and Bhutanese Association of Women Entrepreneurs (BAOWE) (details under the prevention services).

The e-Learning Course on Ethics and Integrity Management in public service developed by the RCSC, RIM and ACC was launched at the Royal Institute of Management by Mr. Tashi Dawa, an honest Bhutanese citizen who was awarded a medal of honour by His Majesty on December 17, 2011 (Dawa found Nu. 6.8 million and returned it to the person who had lost it)

Under the banner of “People’s Voice” a joint production of the Bhutan Broadcasting Service (BBS) and the

Institute of Management Studies (IMS), a live debate was conducted on the BBS TV in Dzongkha and English. The team for the motion agreed that there was political will and support from the government to combat corruption. Within a short span of time although plagued by resource constraint, the ACC has demonstrated success as indicated by the increasing demand for transparency, accountability, efficiency and checks and balances in the public service delivery from the government. The team against the motion opined that there was a lot of room to provide effective and efficient anti-corruption services as non-transparent system, administrative burden, discretionary powers and conflict of interest still abetted corruption. As corruption was about the behavior of people, they underscored the importance of morality, ethics and integrity where much was desired.

During the National Anti-Corruption Week, gewog advocacy workshop was conducted in 4 gewogs of Bumthang Dzongkhag. A total of 197 people comprising the local government leaders, civil servants, contractors and business people attended the program. Since September 2010, similar program has been conducted in 53 gewogs in 6 Dzongkhags. ACC plans to take this program to all the gewogs.

### **Behavioral Change Program: Sustainable Measure against Corruption**

Corruption is a behavioral pattern with moralistic and ethical underpinnings. A long term anti-corruption measure is character development and behavioral change. Character of a society determines the character of a nation. Character development and behavioral change call for sustained and conscious effort of all stakeholders, most importantly leaders, parents, educationists and trainers, spiritual institutions, policy makers and media professionals.

Behavioral change program seeks to produce honest new generation through ethics and integrity education and training program and to create an organizational culture that promotes transparency and accountability through ethical behavior like honesty, fairness, equality, social justice and the sense of shared responsibility. Ethics and integrity take the centre stage of this program.

### **e-Learning Program on Ethics and Integrity Management in Public Service**

With the goal to build integrity in the civil service system, RCSC, RIM and ACC collaborated on developing an e-learning course on ethics and integrity management. This program is in line with NACS and the resolution of the 2nd session of the National Assembly, which requires the RCSC to

operationalize the Civil Service Code of Conduct and Ethics.

The course will initially cover civil servants, which is expected to be completed by the end of 2013. It will subsequently reach out to other public servants, in particular judges and parliamentarians. The program will also be adapted for campus learning by school children and university students in the near future. The program development and its implementation is funded by DANIDA. The course is hosted at the RIM. 3 rounds of Training of Trainers and a pilot test to familiarize the focal persons in the agencies to administer the course have been conducted. An operational manual for focal persons and facilitators have been developed. This is a step by step guide for the focal persons to assure that the trainees are able to take the course on the e-learning platform and manage their progress. It is built on 3 modules.

The first module is built on Ethics, Moral and Organizational Culture. The purpose of this module is to make civil servants aware of the ethical questions and guide them in understanding the civil service values in performing their job. The module introduces civil servants to the importance of applying the civil service values as contained in the Civil Service Act of Bhutan 2010. Cases of unethical behavior are set in connection with the relevant values and the practical guidance contained in the Code of Conduct and Ethics. The module shows sanctions on non-compliance and guides the trainee in

case of doubt. It also asserts the importance of ethical leadership.

The second module raises civil servants' awareness of the negative effects of corruption and nurtures a feeling of strong condemnation for corruption. It enables the civil servants to identify corruption cases through the enhancement of knowledge on the dynamics of corruption. The module illustrates gross violations of the Civil Service Code of Conduct and Ethics which amount to corruption. It introduces the civil servants to the forms of corruption as described in ACA 2011, their causes and negative effects on the population, economy and the state through real life examples from countries around the world.

The third module enables civil servants to combat corruption through various means. The first part describes different anti-corruption frameworks, demonstrating how corruption can be approached from different perspectives and levels i.e. individual, system and policy. It also describes some practical interventions already in place in Bhutan.

The course is mandatory for all civil servants and will be a consideration for their career progression (ref: RCSC/PPD-38/2011/3364, April 11, 2012)

With the enhanced capacity, advocacy product development and outreach activities and work on embedding ethics and integrity in the governance and education system



under the behavioural change program are expected to be more substantial. Programs will focus on improving quality of complaints and issues highlighted by surveys and investigations.

### **Prevention Services: Is better than cure**

Article 27(1) of the Constitution mandates the ACC to take steps to prevent and combat corruption; section 25 (b), (d) & (e) of ACA 2011 mandates the ACC to examine systems in public and private entities that may breed corruption, advise heads of entities and undertake studies and research; section 36 (2) requires the ACC to monitor the implementation of anti-corruption measures by public agencies and vests power in the ACC to demand public agencies to report to it implementation status of such measures and section 38 mandates the ACC to administer asset, income and liabilities declaration. Mainstreaming anti-corruption measure in the general system of governance to minimize corruption opportunities is ACC's priority. However, as amply exemplified by the implementation of NACS, it is a challenge. As highlighted below, ACC's prevention services have made modest achievement in various areas.

### **Systems Study and Recommendation: Curbing Corruption at Source**

Based on complaints and investigation findings, two systems studies were conducted and corrective measures to

that extent were recommended to the concerned agencies. The following is the gist of the studies:

#### **Systems Study on Implementation of HIV/AIDS Program Funded by Global Fund in Royal Bhutan Army (RBA)**

This study typifies various sectoral advocacy and training programs which are either delegated or decentralized to other agencies or sectoral officers in the dzongkhags and which invariably lack transparency and accountability in their administration. Such programs involve huge funds, generally only few individuals know about it and in some situations concerned agencies are not even aware of the flow of funds. In the past, such a program in the education sector was investigated and complaints on similar program in the Health Ministry were shared with the ministry and dzongkhags for sensitization and improvement of the system.

This particular study was conducted mainly to examine the lapses and loopholes in the existing operational system of implementing the HIV/AIDS Program funded by the Global Fund in RBA. The study, inter alia, found RBA, which was one of the sub-recipients of the fund, breaching a number of provisions prescribed in the Memorandum of Agreement. There was also an apparent lack of basic check and balance mechanisms necessary to prevent corruption. Individuals in the management were seen to be carrying out end-to-end functions of the entire project implementation process. For example,

a single officer was made responsible for planning, implementation, monitoring and evaluation including the acceptance of goods, review and payment of bills. As a result, there was not only temptation but also a huge opportunity for the people working in the agency to manipulate and misuse the fund for personal benefit.

The study recommended several remedial measures, which, among others, include reviewing the provisions in the Memorandum of Agreement and strictly adhering to the provisions prescribed thereof, rectifying the fund-flow mechanism, establishing effective accountability system, changing the current operational modality and establishing check and balance including a system of declaring conflict of interest and its management. This intervention should not only ensure transparent operation and effective use of funds but also increase the risk of detection should corruption occur in the process.

### **Systems Study on Refundable and Non-Revenue Deposits and Management**

This study vividly illustrates the general weaknesses that fraught the system – weak management hence poor supervision, monitoring, guidance, counseling and mentoring, non-enforcement of procedures and guidelines, lack of due diligence, lack of accountability, absence of effective grievance redressal mechanism and fear of reprisals for complaining or reporting against officials.

The study was conducted to examine the weaknesses in the government refundable and non-revenue management systems that led to misuse and manipulation of such funds by people in the Ministry of Health (details of the modus operandi under the investigation section). The study, inter alia, found that the two accounts maintained and operated by the Department of Public Accounts, Ministry of Finance, to be operating in a highly risky environment with little or no check and balance mechanism in place. As a result, people have taken advantage to personally benefit themselves through either rolling the funds from these accounts or totally misusing it. For instance, one of the officials in the ministry was found to have diverted and rolled several millions of Ngultrum from these accounts for his personal benefit. This might just be a tip of an iceberg.

The Commission engaged the RAA, Ministry of Finance and Bank of Bhutan in the study. Among others, the study recommended addition of new provisions in the Financial Rules and Regulations such as agencies having to deposit any recoveries within a specific timeframe, use of account payee checks only while making deposits into refundable and non-revenue accounts and validating the deposits to and withdrawals from these accounts on a regular basis. The Bank of Bhutan, as the government bank, has been advised to exercise due diligence when dealing with these accounts. RAA will include these accounts as a core risk area in their annual auditing plans hereafter.

Further, internal audit units of agencies have to be proactive to avoid such fraudulent and corrupt practices.

This intervention should minimize opportunities in the line agencies to roll and misuse public funds from these two accounts. A close scrutiny of all government accounts may be revealing.

### **Asset Declaration and Administration: Lifestyle Watch of the Custodians of Public Resources**

In keeping with ACA 2011, the Asset Declaration Rules 2008 has been successfully revised and the online e-declaration system fine-tuned. The following is the gist of activities covered under the asset declaration and administration program.

#### **Awareness and Advocacy of Asset Declaration Rules 2012**

Along with the training of 147 asset declaration administrators from across the agencies, television and radio programs on asset declaration were organized in collaboration with Bhutan Broadcasting Service. The Asset Declaration Rules 2012 have also been disseminated in the form of news insert and story in Kuensel.

#### **Making AD e-declaration User Friendly**

In a bid to reduce administrative burden, AD online declaration system was initiated in 2008 and continuous

effort has been made through feedback from the users in making it as user-friendly as possible. For instance, a declarant can now edit and submit the same declaration made in the previous year without having to type it again. Asset administrators in agencies have been provided with adequate access to the system to make the decentralized asset declaration administration and management of non-schedule I public servants efficient and effective. The reporting function of the asset administrators is also simplified and can now be done with a click of a button. Since the online asset declaration system is user friendly and reduces administrative burden, the ACC has urged every individual with access to internet to declare his or her assets online.

#### **Compliance Rate of Asset Declaration**

As of 31 March, 2012, 277 out of 333 schedule I public servants have declared their AD bringing the compliance rate to 83.2% as against 327 declarants out of 471 with a compliance rate of 69.4% last year (this year *gups* have been deleted from the list; among the new inclusions are 30 heads of religious organizations and 20 *Dungthrim*s). 190 schedule I public servants have filed their declarations on-line as against 55 last year.

The compliance rate for non-schedule I declarants cannot be ascertained pending the asset declaration administrators' reports. However,

10,635 non-schedule I public servants filed their AD online as of March 31, 2012. Most of the agencies have used the online facility. Some of organizations like Bhutan Telecom Ltd, Royal Monetary Authority and Chukka Hydro Power Plant have made online declaration mandatory. The Ministry of Economic Affairs has developed a short guideline for online declaration posted on their website and has appointed Asset Declaration Administrator (ADA) in each department to help their employees.

The actual compliance report of the asset declaration system along with number of non-declarants, number of disproportionate assets and false declaration will be released later.

### Asset Declaration Protocol

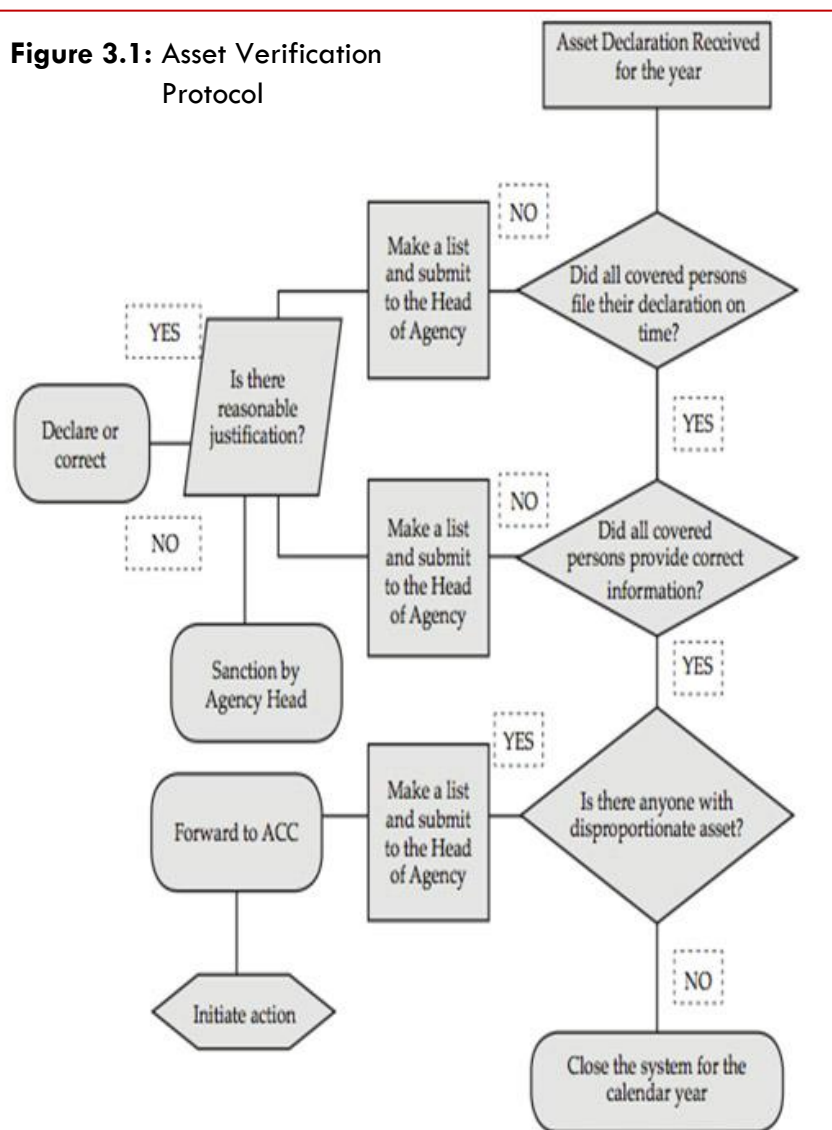
Last year's asset verification protocol was piloted and practical challenges in sampling requirements emerged. It has now been simplified with the removal of sampling processes. All declaration will be put through the same process of verification thus ensuring uniformity in the application of rules. There is a

clearer delineation of responsibilities between the ACC and line agencies with respect to non-declarants, false declarants and disproportionate asset. While the heads of agencies will deal with non-declarants and false declaration, all cases of disproportionate assets will be dealt by the ACC (see figure 3.1).

### Corruption Risk Management and Recommendation: Dynamism from Within

Corruption Risk Management (CRM) not only helps identify corruption risks in an agency but also provides

**Figure 3.1: Asset Verification Protocol**





opportunity for each risk to be examined from the perspective of severity, possible cause, damages and plausible solutions to mitigate them. CRM has to be integral to an agency's management and administration system. It has to be institutionalized as a process in improving its governance. Therefore, ACC's primary focus has been building agencies' CRM capability through their internal auditors and engaging their management and employees in the initial CRM exercise.

Besides the CRM exercises conducted by the internal auditors of some agencies, the ACC also conducted CRM workshops in 8 agencies, viz. Department of Revenue and Customs, National Housing Development Corporation, Druk Air Corporation Ltd., Department of Curriculum & Research Development and Human Resource & Management Division of the Ministry of Education, Drugs, Vaccine & Equipment Division (DVED) of Ministry of Health, Bhutan Telecom Ltd. and National Land Commission Secretariat. 252 employees of the listed agencies were engaged and about 151 risks identified. All those risks were graded based on their severity and measures were recommended to mitigate them. Monitoring of the implementation of CRM plan by the agencies is done internally by the internal audit units and externally by the ACC based on the work plan and the biannual implementation status report shared with the Commission.

As a result of this initiative, many amongst these 8 agencies have either, inter alia, developed their own code of conduct, established service standards and have instituted a system of declaring conflict of interest and managing it.

### **Partnership and Collaboration Program: Building the Critical Mass**

Based on the ideology of 'fighting corruption is a collective responsibility,' partnership program with civil society organizations (CSOs) has been initiated. Along with the organization of the first ever ACC-CSOs Partnership meeting with 21 representatives from 17 CSOs, the ACC signed a Memorandum of Understanding (MOU) with 6 major CSOs viz. the Association of Bhutanese Tour Operators (ABTO), Bhutan Centre for Media and Democracy (BCMD), Respect, Educate, Nurture, and Empower Women (RENEW), Tarayana Foundation, Guides Association of Bhutan (GAB) and the Bhutanese Association of Women Entrepreneurs (BAOWE).

The MOU is aimed at establishing a sustained and effective collaboration and partnership between the ACC and CSOs in combating corruption in the country through not only participatory approach but also building ethical culture and leadership in the CSOs. These CSOs, as representatives and voice of the citizenry, within the framework of the MOU, will themselves refrain from being corrupt, help resist corruption in others by

exposing corrupt activities, monitoring actions and decisions of the all public agencies, demand transparency and accountability and create anti-corruption awareness. They will also report corruption to the ACC whenever and wherever they see corrupt behavior or know about an attempt to commit such an offence. The ACC, on the other hand, will support the CSOs by sharing information, providing technical support, training in anti-corruption related tools and methodologies and sharing anti-corruption training slots both in and ex-country. Like the ACC, CSOs have to be incorruptible, effective and trustworthy, both as a partner and a watchdog.

### **Implementation Status of NACS: Demonstration of Political Will**

As a means to operationalize the government's policy of "Zero Tolerance for Corruption," the ACC formulated NACS in 2009. It was endorsed by the government (ownership being integral). The Committee of Secretaries (COS) was entrusted with the important responsibility of overseeing its implementation by the agencies. The 4<sup>th</sup> session of the National Assembly reiterated the need for the government to take ownership of NACS, ensure its implementation and to report to the Parliament on the matter. Even as it enters into the 3<sup>rd</sup> year, as reported in the past, its implementation is sluggish because of lack of monitoring and accountability. NACS applies to the 3 arms of the government, constitutional bodies,

armed forces and other public entities, media, CSOs and private entities. While the ACC has to double its efforts and explore skillful methods in cultivating the spirit of cooperation and collaboration with institutions through dialogue and engagement process, institutions in turn clearly need to be responsive to anti-corruption policies and strategies; most importantly heads of agencies need to consciously set the tone of "*I will not be corrupt and I will not tolerate corruption in you, my employees*" and enforce it without any compassion.

The Commission continues to make small efforts in monitoring how institutions are implementing the provisions of NACS. Although a few agencies responded to ACC's request, the actual implementation status does not differ from what was reported last year. Judiciary, RCSC, Ministry of Education (MoE), Ministry of Foreign Affairs (MFA), Ministry of Health (MoH), Ministry of Information and Communication (MoIC) and Ministry of Works and Human Settlement (MoWHS, Bhutan Electricity Authority, Royal Bhutan Police, Thimphu City Corporation, Phuntsholing City corporation, State Trading Corporation of Bhutan Ltd., Druk Air Corporation Ltd., Royal Insurance Corporation of Bhutan Ltd., Bhutan Power Corporation Ltd., Bhutan Telecom Ltd., Wood Craft Center, Kuensel, Bhutan Carbide and Chemicals Ltd., Bhutan Polythene Co. Ltd., Tashi Infocom, Tashi Bank, Bhutan Ferro Alloys Ltd. and Bhutan Ferro Industries Ltd. reported on having one or the other anti-corruption measures

mainstreamed within their operations. However, the Commission is unable to confirm whether these measures are actually operationalized in form and spirit. For example, what is the compliance regime for the code of conduct (CoC) of an agency? Who and how actually are conflicts of interests managed in the decision making process?

Nine private sector entities and 2 CSOs reported of not being even aware of the very existence of NACS, which had undergone extensive (since 2006) consultative processes and distributed widely after its endorsement by the government in 2009. The Commission certainly has not been able to engage private entities and CSOs bilaterally. NACS sensitization process in the private sector will be taken up soon in collaboration with Bhutan Chamber of Commerce and Industry (BCCI).

Conscious efforts also need to be made at agency and government level with effective monitoring and evaluation by the oversight bodies. The ACC, with its limitations, has been at the disposal of the line agencies for any technical support. For effective implementation of NACS, there is an immediate need to either revamp the existing oversight body or provide new impetus by reconstituting it all together with solid mandate. A monitoring and evaluation (M&E) tool has also been developed by the ACC to assess the implementation of NACS by agencies. The tool will first be piloted in the ACC and if found useful,

the Commission will share it with COS and other oversight bodies.

The following is a brief analysis of the status of NACS implementation by the agencies under each strategic consideration:

### **Strategic Consideration 1: Promoting Leadership**

Promoting leadership is one of the most important aspects of combating corruption. While autonomous agencies are responsible for their own actions with respect to promoting quality leadership, RCSC is responsible for it in the civil service. As insignificant as in the autonomous agencies, there is no visible effort made by the RCSC in cultivating leadership in the civil service. Recruitment system has not changed and activities to groom and develop leaders are still rare. Complaints as per investigations still points to weak leadership in the system. Leadership is an important precondition to the fight against corruption. There is still much to be done in this strategic consideration.

### **Strategic Consideration 2: Ensure Sustained Political Will**

Bhutan certainly fares well in the fight against corruption, when compared to many developing countries in the region and beyond. This is not because of conscious and collective effort of all concerned but because of few actions and their impact on a small system and populace. Political will of leaders must not only manifest in passive expression of support but in hard policy

interventions and hard decisions. Similarly, political will of the people must manifest in behavioral change (not taking the easy way out by “lending money” to accountants, engineers and immigration, customs, forestry .... Officials in return for violating laws), demand for accountability from service providers (despite potential reprisals) and reporting corruption even if one is not affected directly (it is challenging in a small society but people must want to change it). It must also be reported that as of now no attempt has been made to immobilize the ACC either through budgetary reduction or interference in its affairs.

### **Strategic Consideration 3: Review Legal Framework**

Laws form the first and last line of defense against corruption. Under this consideration, law vis-à-vis corruption offenses were to be reviewed and accordingly revised to make corruption a high risk and high cost crime in the country. As the primary premise for the revision of ACA 2006, an expert multi-sectoral team reviewed domestic laws vis-à-vis the UNCAC and made recommendations (UNCAC self assessment report). ACA 2011 is more comprehensive and effective. See details under the legal services.

### **Strategic Consideration 4: Review and Strengthen Institutional Capacity**

Capacities of agencies like ACC, OAG, RBP, RAA, CSOs, media and the judiciary have to be strengthened as

these agencies play a vital role in combating corruption. The anti-corruption capacity of the above agencies is unknown and neither has any effort been made to study it. The ACC, however, engages the judiciary, RAA and the Royal Bhutan Police in its capacity development efforts. It still does not have qualified researchers and system analysts, resulting in weak database and hence weak policy instruments. OAG is still short of prosecutors and suffers from institutional weaknesses. CSOs and media fraternity need trainings and orientation in assuming more sustainable and meaningful role in combating corruption. There is much to be done under this consideration.

### **Strategic Consideration 5: Review and Refine Systems**

Agencies are expected to review and refine their existing operating systems to make them more efficient and effective. Apart from initiating and facilitating corruption risk management in 16 agencies, the ACC initiated 5 independent systemic corrections in different areas.

In so far as the initiatives from the agencies are concerned, 22 agencies are reported to have established a system of declaring conflict of interest. The judiciary and the Royal Insurance Corporation of Bhutan Ltd. reported of having developed a separate code of conduct. TCC and MoH also reported of having in place some service standard. In TCC, a customer service division is reported to have been established; delivery of one-window



service is expected for complaints related to water, revenue, billing, census, sewerage, drainage and site inspections. Likewise, MoH's also reported to have developed service delivery standards (SDS) for Accounts and Finance Division (AFD), Drugs Vaccine and Equipment Division (DVED) and Department of Public Health (DPH).

In many agencies, however, there is an inherent absence of basic anti-corruption measures like code of conduct, managing conflict of interest and service standards (ACC initiated the process as early as in 2007). While many interventions are reported to have been instituted, their actual operation and impact have to be monitored. There is much to be done in this strategic consideration. Service users have to be educated on the interventions reported above and effective complaints management and redressal mechanism have to be put in place.

Government's government to citizens (G2C) and government to government (G2G) initiatives are also important steps towards refining service delivery systems.

### **Strategic Consideration 6: Develop Long-Term Educational Strategy in Building an Awakened Citizenry**

A long-term educational program to build an awakened citizenry is imperative. Apart from regular educational and awareness programs carried out by the ACC, an online training on ethics and integrity

management has been launched in collaboration with RCSC and RIM. Some aspect of good human value and integrity has also been integrated into the curricula of non-formal education system. The Ministry of Education has introduced 'Infusing GNH values in schools.' Ethics in the business sector has hardly any meaning even today. Much work remains to be done in terms of embedding honesty and integrity in institutions such as family, school, community and service agency. The ACC is in the process of conducting a research on value education in schools.

### **Strategic Consideration 7: Promoting Partnership**

Fighting corruption is a shared responsibility. Alliances have to be forged with media, CSOs, private sector, spiritual institutions and with regional and international anti-corruption agencies. While ACC has established formal relationship with 6 major CSOs through the signing of MoUs, it also has generally good working relations with most media houses in the country. Future collaborative activities with media fraternity and CSOs have also been planned. However, partnership with the private sector and spiritual institutions could not be well grounded. With regards to partnerships with regional and international agencies, the ACC is well on track. It is a member of the ADB-OECD Anti-Corruption Initiative for Asia-Pacific. It has signed an MOU with the anti-corruption agency of Thailand and has received anti-corruption delegations

from Timor-Leste, Maldives and Botswana.

A major activity that will be undertaken in 2012/13 in collaboration with the National Statistical Bureau will be the 2<sup>nd</sup> Integrity Assessment Survey. The last survey was conducted in 2008.

### **Legal Services: Rule of Law**

A strong and effective enforcement agency demands strong laws, which are disseminated widely and generally understood by people. Laws have to manifest in clear and effective operating procedures that uphold the spirit of rule of law and fundamental rights of individuals and have to be enforced indiscriminately and stringently. Timely and quality legal counsel and drafting of effective rules and regulations for the progressive development of anti-corruption statutes demand a strong team of legal professionals, which the Commission has been unable to build. Nonetheless, the ACC's achievement in ensuring rule of law has been modest as highlighted below. Major work during the period of reporting has been the operationalization of ACA 2011.

### **Operationalization of ACA 2011: Building an Enforcement Culture**

The Anti-Corruption Bill 2011 was passed on May 30, 2011 by the joint sitting of the 7th session of the first Parliament. With ACA 2011 coming into force on July 5, 2011, ensuing activities such as revision of existing

rules, guidelines and manuals and drafting of new rules were listed, about 52, and prioritized. Many of these have been included in the revised operation manual. Some of the important activities undertaken by the ACC to operationalize the Act were:

### **Asset Declaration Rules (ADR) 2011: Being Accountable for Public Resources**

Public servants are expected to serve public interest and manage public resources judiciously and honestly. ACA 2011 requires public servants to declare their, their spouse's and dependent's assets, income, and liabilities. Enforcement of ADR 2008 was weak because of practical challenges especially in implementing unrealistic penalties such as removal and impeachment of public servants on the first instance of non-declaration of AD.

The revision of ADR 2008 involved intensive in-house and external deliberations with all stakeholders for over 6 months including receiving on-line comments (avenue created on the ACC website) from the public. The ADR 2012 came into force on 9 February, 2012 following its endorsement at the validation workshop conducted in January 2012.

Asset Declaration Rules 2012 is, in many ways, more comprehensive, simpler and more realistic than ADR 2008. The Rules now target only those professions and positions which are vulnerable to corruption, substantially reducing the administrative burden. It

also ensures effective enforcement. Further, ADR 2012 excludes *gups* (elected heads of block councils) from schedule I, exempts teaching profession from declaration, requires a single declaration from a public servant even with multiple portfolios, assigns clear responsibility and accountability to heads of agencies and asset declaration administrators, has simpler ways of determining disproportionate assets, has implementable penalty against defaulters and ensures systematic and uniform application.

Administration of asset declaration is covered under prevention services.

### **Debarment Rules 2012 (Rules): Embedding Integrity in Business**

Section (40) (3) of ACA 2011 empowers the Commission to make debarment rules in consultation with relevant agencies. The Procurement Rules and Regulations 2009 also require such a rule. The Rules is expected to ensure that government awards contract or conducts business only with credible and responsible persons or entities. Drafting of the Rules began as early as 2007, engaging important stakeholders. However, its finalization was delayed primarily because of the revision of ACA 2006, lack of in-house capacity, solicitation of external experts' views and poor response from the stakeholders. The draft was shared with all stakeholders in 2009, in 2011 (limited) and again in February 2012 for feedback and in preparation for a larger consultative workshop. It was

also posted on the website for public review and comments (no comment received).

The draft Rules, drawn in consultation with relevant agencies and individuals, has been aligned with ACA 2011. Amongst others, it proposes to (i) establish a debarment committee and an evaluation panel with clear operational procedures, (ii) institute a process for managing complaints, (iii) specify causes for debarment or suspension and the consequences thereof, (iv) require the debarment committee to follow or guarantee parties involved a minimum due process and (v) to create a debarment registration system.

Sanction in the draft Rules ranges from exclusion to debarment. A person or entity will be debarred if s/he/it is involved in one or more causes for debarment and is determined that there is no reasonable ground that s/he/it can be rehabilitated through compliance programs. The debarment period ranges from one year to 5 years. It also proposes conditional release from debarment if the debarred party demonstrates compliance with certain remedial or preventive conditions. The remedial condition may include improved business governance through introduction or improvement of integrity compliance or ethics programs and remedial measures to address the misconduct for which the party is debarred. The draft Rules also provides a platform for settlement negotiation.

Comments from stakeholders and external experts have been incorporated. The final draft will be presented to a larger stakeholders' workshop for endorsement later this year.

### **The Gift Rules (Rules): Cultural Shift**

Offering and acceptance of gifts or any form of gratification is part of Bhutanese culture. However, ACA 2011 and Bhutan Civil Service Rules and Regulation 2010 prohibit gift solicitation and acceptance as it inherently underpins the important issue of conflict of interest. Although the Gift Rules came into force as early as on March 5, 2009 (conducted consultation workshop and Rules distributed to all agencies), its enforcement has been weak because of lack of public awareness, capacity development, compliance monitoring mechanism and weak accountability. The Rules required the Commission to develop a gift disclosure form and to issue the terms of reference (ToR) for gift disclosure administrators and required the agencies to designate gift disclosure administrators and to develop a database on the management of gifts. Both parties failed to fulfill the requirement. 2009 Annual Report recorded only Ministry of Economic Affairs as having designated a gift disclosure administrator and a database. Further, the Commission also failed to ask for compliance report from the agencies. There was a serious lack of conscious effort from both the Commission and the agencies in implementing the Rules.

The Rules has now been revised to align with ACA 2011. The revised Rules prescribe gift disclosure form and gift management system. The head of the agency, gift disclosure administrator and gift recipient will be held accountable for non-compliance. It will be the duty of the heads of agencies to ensure the implementation of the Rules and to monitor it. Penalty provisions have also been revised to ensure enforceability. As in the case of draft Debarment Rules, a stakeholders' consultative workshop will be conducted for its endorsement. The Commission will launch public awareness program on the Rules to ensure its enforcement.

### **The Public Service Model Code of Conduct: Truly and Professionally Serving**

Section (35) of ACA 2011 mandates the Commission to develop a "Public Service Model Code of Conduct (Code)," which is also one of the recommendations of Bhutan's UN Convention against Corruption (UNCAC) Self-Assessment Report (2010). The Code, which forms an integral part of the employment terms and conditions of public servants, is only a guide and not a prescription. It incorporates numerous international best practices. It spells out the standards of integrity and conduct to be complied with by public servants, provides guidance to help them meet those standards and informs the public of what they can expect of public servants. And that responsibilities and accountability are also fixed. The heads of agencies are responsible for

implementing the Code by developing their own code of conduct, policies, rules, training, and procedures as guided by the Code and suiting their functional requirements.

The Code is expected to help foster an ethical culture in the public service and strengthen public trust and confidence in the public servants, public service delivery systems and the institutions. The Commission will discuss and share the Code with relevant oversight agencies for implementation.

### **UNCAC Self-Assessment Report (Report): Being Among the Best**

The Report is an assessment of domestic laws vis-à-vis UNCAC, which was carried out by an 18 member team of lawyers and experts from various agencies for over a period of 5 weeks in March/April 2010. Professionals from Basel Institute of Governance, Switzerland, assisted ACC in engaging stakeholders, reviewing the draft and in conducting the validation workshop. The general findings of the assessment were submitted to the Parliament last year. It is a consolidated anti-corruption action plan and in essence operationalization of NACS. An incidental benefit of the exercise is Bhutan's readiness to ratify UNCAC.

The Report contains an implementation action plan with 312 activities, key actors and time frame (implementation to be completed by 2013). While the Report is yet to be presented to the government in particular with the revision of ACA 2006, revision of

procurement manual, training of procurement officers, development of model code of conduct, engagement of civil society, establishment of Financial Intelligence Unit, drafting of anti-money laundering rule, enactment of Financial Services Act and introduction of auditing standards over 40% of the recommendations have been implemented. Activities under international cooperation and asset recovery essentially require establishment of mechanisms for smooth bilateral cooperation in among others, sharing of information on corruption, collaboration in various aspects of investigation, extradition, recovery and confiscation of asset, which are not pressing for Bhutan yet. However, in light of regional conventions and increasing foreign investments, mutual legal assistance with few critical countries may be required sooner than later.

The Report will be published soon. The status of the implementation plan will be reviewed, updated and presented to the government.

### **Investigation: Combating Corruption Fearlessly**

Article 27(1) of the Constitution mandates the ACC to take steps to prevent and combat corruption; section 25 (1) (g) of ACA 2011 empowers the ACC to detect and investigate any suspected offence, suspected attempt or suspected conspiracy to commit a corruption offence. Investigations are conducted in accordance with chapter 6 of ACA 2011 and the operational manual.



## Complaints Management: Response to Fundamental Duty

The Complaint & Follow-up Section (CFS) manages the complaints lodged to the ACC in accordance to chapter 5 of ACA 2011. CFS receives and registers complaints, maintains database, enriches information, prepares for evaluation of complaints by the Complaint Evaluation Committee (CEC) and onward submission to the Commission and follows up on the decisions. Complaints management, as the interface with the public, is an important responsibility of the ACC. CFS is being strengthened with more people (now managed by 3) to handle the increasing number of complaints. The Commission also recognizes the imperative of building greater investigative capacity with increasing number of complaints. Under-resourcing of this area will potentially undermine public confidence in the ACC, especially when people truly start contributing to the fight against corruption by filing complaints in larger public interest.

### Profile of Complaints

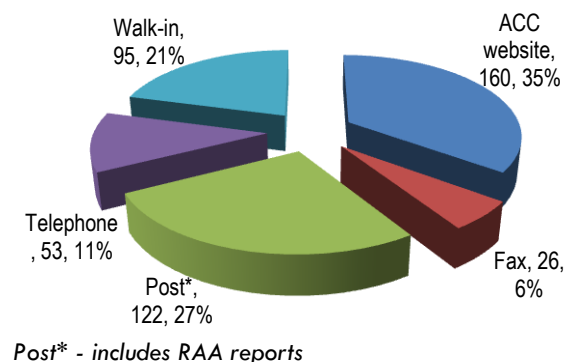
#### Number of Complaints Received

During the period of reporting, ACC received 456 complaints as compared to 375 in 2010 and 512 in 2009, representing an increase of 21% and decrease of 10%, respectively, from the previous years. There is no set trend in number of complaints that the ACC receives annually; it fluctuates from year to year. The increase in the number of complaints from 2010 could

be attributed to the increasing awareness of the people about corruption, easy access and active participation of the people to use the complaint mechanism, absence or weak redressal mechanism in agencies and also public confidence in the ACC. However, it also has to be noted that there is a huge backlog of complaints that await further action, which potentially undermines public trust and confidence in the ACC.

The complaints are received through ACC Website, Fax, Post, Telephone and Walk-in. The figure 3.2 shows the mode through which complaints were lodged with the ACC during the period of reporting. The most used modes were ACC's website (35%) and Post (27%).

**Figure 3.2:** Details of complaints lodged in April 2011 – March 2012



Complaints also include reports with elements of corruption, which are forwarded by RAA. During the reporting period, ACC received 26 such reports. 19 (73.1%) were shared with agencies for actions of which 13 have been acted upon and closed except for one, one is under trial and another under investigation; 3 (11.5%) qualified for investigation by ACC,

which has not begun at all because of other ongoing cases; 3 (11.5%) will be reviewed bilaterally between RAA and ACC (2 reports do not highlight probable corruption offence); and one (3.4%) is under RAA's review.

### Complaints by Type of Corruption

Table 3.1 categorizes the complaints received during the period of reporting under the corruption offences described in chapter 4 of ACA 2011.

**Table 3.1:** Complaints received by type of corruption

Types of Corruption	2009	2010	Apr. 2011-Mar. 2012
Abuse of functions	171 (33%)	166 (44%)	111 (24%)
Embezzlement	66 (12%)	35 (9%)	84 (18%)
Bribery	20 (3%)	4 (1%)	12 (3%)

Abuse of functions or position relate to a public servant performing or omitting to perform an act amounting to favouritism, nepotism or patronage in violation of laws, in discharging his or her functions to obtain advantage for himself or herself or for another person. As reflected by the number of complaints, abuse of functions is a common feature of public servants in position of power, which the ACC's investigations and surveys also testify.

Embezzlement refers to misuse of funds, securities and properties, directly or indirectly, by individuals, public and private, who control and are the custodians of such resources.

Major complaints on the means to corruption received by the ACC are deception (65, 14%), collusion (68, 15%), coercion (4, 1%), and others (112, 25%) out of the total complaints of 456.

### Complaints by Area of Corruption

Based on the complaints, 5 areas where corruption occurs frequently are resources (property and funds), land, personnel management, construction and procurement of goods and services (refer Table 3.2). During the period of reporting, complaints on misuse of resources was the highest with 114 complaints (25%), followed by land with 76 complaints (16%). Complaints on land and construction have increased over the years, which will be the trend for few years.

**Table 3.2:** complaints by 5 most frequent area of corruption

Area of Corruption	2009	2010	Apr. 2011-Mar. 2012
Resources ( <i>funds &amp; property</i> )	118 (23%)	97 (25%)	114 (25%)
Land	49 (9%)	38 (10%)	76 (16%)
Personnel	100 (19%)	68 (18%)	52 (11%)
Construction	33 (6%)	34 (9%)	48 (10%)
Procurement ( <i>goods &amp; services</i> )	29 (5%)	40 (10%)	36 (7%)

### Corruption in Land

Land is one of the areas that are rife with corruption. The problem is more serious where demand for land is high like in urban areas and places where developmental activities are taking place or planned (such as town and/or

local area planning, hydropower and other mega projects). The situation is exacerbated by delays in land surveying and mapping, bureaucracy, dependence on local officials and leaders, inefficiency and lack of transparency in land transactions, creating recipe conditions for corruption.

Some common complaints of corruption in land are:

- Illegal land acquisition (both government and private) by influential people, public officials, local leaders and land administration officials through abuse of power;
- land leasing, land acquisition and development to benefit those in positions of power and their relatives;
- abuse of functions by public officials in land allotments and compensations;
- abuse of functions and bribery by public officials during land registration and transactions; and
- Illegal occupation of government land by private individuals by increasing the acreage from actual allotment during transfers/registration process through fraud, collusion and deception.

Alleged incidences of corruption in land:

- Dzongkhag administration acquired land for a hydropower project and allotted to influential people;

- Drangpon illegally occupied part of the land belonging to a private individual;
- Gewog *Tshogpa* took the land of a private individual by manipulating *thram*;
- Gup occupied government land;
- Land administration officials illegally transferred land from both government and private to their names;
- Municipal authorities allotted government land to private individuals by manipulating *thram*; and
- Allotment committee gave plots to their family and friends.

Corruption in land undermines social stability, investment, broad-based economic growth and sustainable development. Therefore, it must be minimized or eliminated through strong enforcement of laws, streamlining policies and procedures, keeping an inventory of government land, computerization of land records, ensuring transparency in planning and land development, restituting illegally occupied land (private or public) and penalizing corrupt individuals and their accomplices.

### ***Corruption in Public Procurement***

Government is the primary buyer of works, goods and services in the country. It is done mostly through a public procurement process whereby private sector enterprises are involved. The annual national budget indicates that the maximum expenditure incurred by the government is on

procurement. In the last three financial years, construction (works) alone accounted for an average of 58.14% of the annual government expenditure. In 2011–12 (as of 31-12-2011), revised budget of construction (works) alone was Nu. 15,337.463 million, accounting for 70.31% of the total annual budget (source: *Budget & Accounts*). If procurement of goods and services (such as consultancies) are added, total procurement budget will increase substantially. Where such huge budget is involved, risk of corruption is correspondingly huge. In April 2011 – March 2012, 17% of the total complaints received by the ACC were on public procurement.

The high-priced megaprojects such as hydropower and cement plants are also highly prone to corruption. 10 hydropower projects for the development of 10,000 MW by 2020 have been identified of which 3 are already underway. The total investment for developing all the projects is to the tune of around Nu. 190 billion (source: *DGPC*). The Dungsam Cement project which is due to be completed soon is estimated at a cost of Nu. 8,756.00 million (source: *DHI*). These projects demand huge funds, a large contingent of personnel, local and expatriates and engage foreign companies. Corruption remains a major threat to investment, award of contracts and project implementation. Effective anti-corruption policies and strategies necessarily have to be integral to the management of all such projects. Transparent and robust internal control mechanisms including grievance redressal have to be

established to ensure that these megaprojects are not mired in mega corruption.

The cost of corruption in procurement is difficult to measure quantitatively because it is not just about money, it costs lives due to poor or sub-standard quality of works, goods and services and ultimately public trust. The Asian Development Bank estimates a leakage of 30-35% of the budget through procurement in the Asia-Pacific region. Using the information, in 2011-12 government would lose Nu.4.6- Nu.5.34 billion to corruption (in works alone, which has a budget of Nu. 15.337 billion). Transparency International (TI) estimates that damage from corruption can represent on average 10 to 25 per cent and in the worst cases as much as 50 per cent of a contract's value. Using highly conservative estimation of 10%, the government would be losing Nu. 19 billion to corruption in the hydropower projects which is more than the average annual government expenditure/budget of around Nu. 12 billion. From the ACC's investigation, it was found that Ministry of Labour & Human Resources lost Nu. 13.27 million to corruption in the construction of Rangjung Vocational Training Institute, accounting for 17% of the total contract value. Ministry of Health lost Nu. 73.827 million to corruption in the procurement of medical equipment, which is 22% of the total contract value.

Some of the key impacts of corruption on procurement listed by TI and which are also relevant to Bhutan are:

**Financial Impact:** Financial impact or damage can consist of unnecessarily high cost of purchases, burdening the government with financial obligations for purchases or investments that are not needed and early repair costs to repair and maintain investments.

**Economic Impact:** Economic impact can consist in burdening the government with operational, maintenance and debt servicing liability for investments/purchases and when capital investment levels decrease because of corruption costs and threats to business operators.

**Environmental Impact:** It includes bad choices made that have adverse environmental impact. Non-compliance with the country's (or international) environmental standards, can have environmental or health risks or long-term adverse impact on the environment.

**Impact on Health and Human Safety:** Damage can consist in human health and safety risks due to quality defects, environmentally unacceptable investments or noncompliance with environmental or health standards.

**Impact on Innovation:** Corruption induced lack of competition leads to the neglect of innovation. Corrupt companies will not spend resources on innovation and non-corrupt companies will feel less inclined to make the necessary investments if they cannot access markets due to corruption.

**Erosion of Values:** When people observe lack of concern for integrity,

common good and corrupt behavior is not being sanctioned; officials in the government and economic operators easily reduce their own integrity standards, out of need and often out of greed.

**Erosion of Trust in Government:** When people observe that corrupt behaviour among government officials is not being sanctioned, they conclude quickly that government in general is not to be trusted and that cheating government is morally acceptable.

**Damage to Honest Competitors:** Corruption by corrupt bidders, if successful and not sanctioned, damages and possibly destroys the honest competitor and may well lead to job losses on the part of an economic operator who is better and more innovative.

**Serious Danger to Economic Development:** If a government commonly allows corruption in the context of purchases and investments, often projects are selected not on merit but by the amount of bribe payments made. Due to this the country may soon end up squandering investment opportunities and external development assistance and thus seriously retard the country's economic development.

Complaints and investigations reveal that corruption occurs in various forms at different stages of the procurement process as given below:

**Procurement planning and budgeting phase:** inflated actual requirements,



bloated estimates and procurement requirements written to favor or disfavor particular suppliers and/or contractors.

**Bidding phase:** evaluation criteria in the tender documents drafted to favor a particular bidder, leakage of information, evaluation manipulated to favor a particular bidder, bid rigging and bids supported by forged and false documents.

**Contract award and performance phase:** public official and contractor partnership, fictitious supply/work orders, false and /or excess claims and subsequent payments, contract deviations, sub-standard works or goods and poor supervision and monitoring.

Complaints and investigations of corruption in the procurement sector have also revealed serious cases of conflict of interest, i.e. procurement officials nurturing business collaboration with vendors/suppliers (of the office). Licenses are generally operated in the name of relatives. On successful establishment of business venture, officials generally resign from office to operate it.

### ***Corruption in Personnel Management***

The importance of human capital, whether in the civil service or in a private entity, as a means to achieving organizational objectives cannot be overemphasized since it is the fundamental strength on which all strategies are based. People are at the core of any agency. Their

leadership traits, attitude, motivation and professionalism determine an agency's culture, image and performance. So far, complaints on personnel management has ranked 2<sup>nd</sup> amongst the 9 areas of corruption, which is a cause for deep concern. During the period of reporting, it ranked the 3<sup>rd</sup> highest with 11% of the total complaints. These complaints cut across all sectors and levels and largely pertain to favoritism and nepotism during selection, recruitment and nomination processes. Such practices, if unchecked, can penetrate into public life influencing the behavior of public officials and citizens alike, personal ties and loyalty taking precedence over competence and merit.

Corruption in personnel management results in unequal access to employment opportunities, trainings and promotion; undermines hard work and honesty of public servants and private employees; de-motivates employees and thus lowers the quality and efficiency of services as a whole. It may also cost many educated and talented people the opportunity to contribute to their agencies and the society at large. Depletion of public trust is also a cost that agencies and government may pay.

Considering just the civil service, the personnel emoluments budget for the last 3 financial years was Nu. 5257.913 million, Nu. 6,034.145 million and Nu. 6333.042 million (source: *Department of Budget & Accounts*). If impact of de-motivation of civil servants because of abuse of

power by senior public servants, favouritism and nepotism and theft of office time are monetized (no empirical study done), the scale of loss may be substantial. For example, even simplistically considering 10% of civil servants not performing for reasons mentioned above, government may lose Nu. 633.3 million in the current financial year. Considering the prevailing civil service culture of impunity and non-accountability, the loss to the country and the people may continue to increase.

The oversight agencies such as the RCSC, Druk Holding and Investments and BCCI have to closely review the prevailing system of selection, recruitment and training nominations in their jurisdiction and accordingly amend related policies and laws to ensure transparency and fairness in the system. There has to be adequate check and balance mechanism built into the system including operationalizing the system of declaring conflict of interest. Human resource management audit needs to be implemented and supervision and monitoring strictly carried out. A culture of integrity has to be built which demands exemplary leadership at the top and strong integrity policies and management systems. Besides these, performance management of civil servants also has to be professionalized so that the monthly salary is truly earned and trainings, increment and promotion do not continue to be a matter of right.

## Complaints Against Agencies

Table 3.3 shows the 9 most frequent agencies against which complaints are lodged to ACC by the public. During the reporting period, the ACC received maximum complaints (20%) against local government followed by corporations (18%) and private sector (14%). Complaints against local government have increased to 93 from 51 in 2010 and 25 in 2009, an increase of 82% and 272% from the previous years. Complaints against corporation has increased to 84 from 41 in 2010 and 53 in 2009, increase of 104% and 58% from the previous years. Likewise, complaints against ministries have also increased. Complaints against dzongkhags were 32 as compared to 49 in 2010 and 9 in 2009.

**Table 3.3:** Complaints against 9 most frequent agencies

Agencies	2009	2010	Apr. 2011- Mar. 2012
Local Government	25 (4%)	51 (13%)	93 (20%)
Corporations	53 (10%)	41 (10%)	84 (18%)
Private sector	64 (12%)	84 (22%)	65 (14%)
Dzongkhags	9 (1%)	49 (13%)	32 (7%)
Autonomous bodies	48 (9%)	25 (6%)	31 (6%)
Ministry of Health & Cultural Affairs (MoHCA)	6 (1%)	4 (1%)	27 (5%)
Ministry of Education (MoE)	16 (3%)	25 (6%)	23 (5%)
Ministry of Health (MoH)	12 (2%)	20 (5%)	21 (4%)
Ministry of Works & Human Settlement (MoWHS)	6 (1%)	14 (3%)	20 (4%)

Local governments and dzongkhags are more susceptible to corruption because interactions between public and officials happen at greater levels of intimacy and frequency. Further, with greater devolution of authority and resources to the local government, corruption is also correspondingly devolved.

### Anonymous Complaints

In accordance with section 78 (2) of ACA 2011, the ACC entertains anonymous complaints. During the period of reporting, the ACC received 196 (43% of the total complaints) anonymous complaints as compared to 205 in 2010 and 297 in 2009, a decrease of 4% and 34%, respectively, from the previous years.

**Table 3.4:** Anonymous vs known complaints

Sources	2009	2010	Apr. 2011 - Mar. 2012
Known	215 (42%)	170 (45%)	260 (57%)
Anonymous	297 (58%)	205 (55%)	196 (43%)

The decreasing trend of anonymous complaints may be attributed to growing confidence in the ACC and

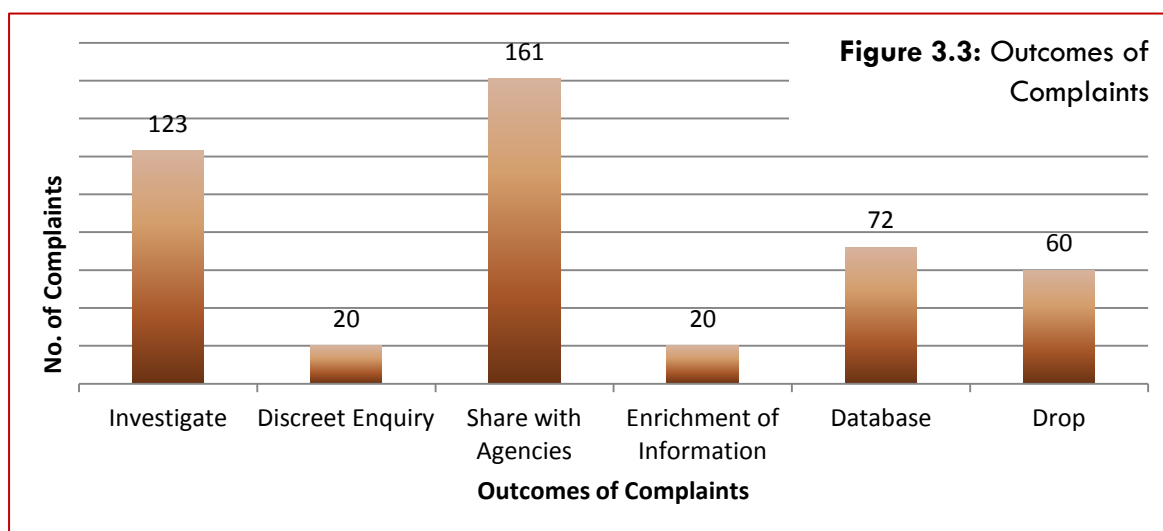
lesser fear of victimization and intimidation.

### Processing of Complaints

Complaints are received and registered in the Investigation Management System (IMS) and evaluated weekly by the Complaint Evaluation Committee (CEC) on the IMS itself based on the persuability evaluation factors (P-Value scoring). The P-Value scoring rates the complaints based on the available details, financial and social implication. CEC's evaluation is reviewed by the Commission and decision taken, thereof.

### Outcomes of Complaints

The P-Value scoring, as evaluated by CEC and decided by the Commission, determines the outcomes of the complaints. The outcomes are classified into 6 categories, viz. (i) Investigate, (ii) Discreet Enquiry, (iii) Share with agencies, (iv) Enrichment of information, (v) Database and (vi) Drop. Figure 3.3 shows the outcomes of complaints for April 2011 – March 2012.



Number of complaints that have qualified for investigation has increased to 123 as compared to 45 in the last reporting year, 2010, placing greater burden on the already overstretched resources. As of March 2012, the total number of complaints which have qualified for investigation is 424; it is a matter of serious concern for the Commission. However, all 424 complaints may not entail in full blown investigation following the initial review and enquiry.

Discreet enquiry on a complaint is undertaken by the Investigation Division either to enrich information or authenticate its reliability prior to making any decision on the complaint. Based on the discreet enquiry's revelation, the Commission decides to either upgrade the complaint to a full fledged investigation or take other appropriate actions. In April 2011 – March 2012, 20 complaints had qualified for discreet enquiry which is a drastic reduction from 239 in 2010.

The Commission also shares complaints with agencies either for sensitization or

action when they are of administrative nature; in some cases agencies are required to submit their enquiry reports to the Commission. In April 2011 – March 2012, 161 referrals were made to agencies. Referrals of complaints to agencies call for system improvement, streamlining policies and procedures, strict enforcement of rules and regulations, demand for greater transparency in decision making processes and an effective redressal mechanism, ultimately leading to public trust and confidence in the agencies. Further, complaints that do not fall within the definition of corruption but relate to other crimes are sent to the concerned law enforcement agencies.

Complaints that contain general allegation of corruption but unsubstantiated are kept in database and those that do not bear any element of corruption are dropped.

### Investigation of Cases

The Investigation Division investigates cases on priority basis taking into

Year	No. of Cases							Total
	Under / Pending Investigation (ACC)	Shared with agencies (Disciplinary referrals)	Pending Prosecution (OAG)	Pending verdict / Under Trial (Courts)	Adjudication completed		Closed	
					Con- victed	Acqu- itted		
2006	-	1	-	1	5	2	-	9
2007	-	9	-	-	9	-	1	19
2008	11	10	-	4	3	-	7	35
2009	2	8	3	5	1	-	1	20
2010	3	2	2	5	1	-	2	15
2011	7	3	-	3	-	-	-	13
Till March 2012	2	-	-	-	-	-	-	2
Total	25	33	5	19	18	2	11	113

**Table 3.5:** Outcomes of investigation (2006 – Mar. 2012)

consideration the gravity of allegations, its status (future, current or historic), availability of evidences, cases in hand and available resources. However, when there are important and hot pursuit cases resources are redeployed. Cases vary in complexity and hence their duration. Investigation requires tireless tracing and careful examination of loads of varied information from multiple sources besides tracing of people. It is stressful and highly time consuming, which is invariably aggravated by bureaucratic procedures in obtaining information and serious systemic problems of poor record keeping and frequent absence of public servants from office without whom no one knows anything. Time taken to respond to ACC's enquiries by agencies significantly impact on the efficiency of investigation. Networking with agencies in establishing an effective system of information sharing is a priority for the Commission but it is a serious challenge.

### Outcomes of Investigation

Based on the findings of investigation, the following actions are taken:

- Prosecution referral
- Disciplinary referral
- Systemic recommendations for corruption prevention.

The outcomes of the cases investigated by ACC from 2006 to March 2012 are shown in Table 3.5.

### Prosecution Referral

The Commission, under normal circumstances, does not prosecute cases as a result of its investigations. The prosecution mandate is with OAG.

The Commission, as per section 128 of ACA 2011 and the Prosecution Referral Guideline 2011, makes the referral to OAG only when there is sufficient evidence and that the prosecution would serve public interest. The Commission has conducted 113 full fledged investigations since its establishment in 2006, of which 43 cases have been referred to OAG for prosecution. Courts have adjudicated 20 cases wherein 18 cases have convictions and 2 acquittals (acquitted only of criminal charges but administrative sanctions upheld/imposed) representing 90% (or 100% for practical purpose) conviction rate. 18 cases are still under various stages of adjudication. 5 cases are yet to be registered in a court of law by OAG.

### Ongoing Investigations

Twenty five cases were still under investigation as of March 2012. Some cases are stalled or kept pending due to other pressing cases. Some of the major cases being investigated include:

- Gyelpozhing land case
- Bribery and fraud case in health procurement
- Bribery and excess payment cases in construction works.



During the period of reporting, 15 new cases were taken up for investigation in addition to the cases carried forward from the previous years. Of the 15 new cases, 2 (13%) were on construction, 3 (20%) on land, 3 (20%) on personnel and 7 (47%) on procurement (goods & services). On an average, 19 cases are investigated every year. Investigation of corruption offences requires experienced people, who are in short supply despite several recruitment attempts. Experienced in-service civil servants are reluctant to join ACC given the nature and demand of the job, social milieu and unattractive service conditions.

### ***Cases Pending with OAG***

As of March 2012, 5 cases were still under review by OAG. These are bribery cases of Health Ministry involving 10 individuals, Construction Development Corporation Ltd. (CDCL) case involving 6 individuals, and illegal mining case of M/s SD Eastern Bhutan Coal Company Ltd.

### ***Dispensing Justice and Punishing the Corrupt***

Speedy action (without undermining due process and fair trial) against corrupt individuals creates greater impact in the fight against corruption. It is a manifestation of the policy of “Zero Tolerance for Corruption” and of the political will of leaders and institutions.

Some cases that have taken unduly long are:

The final judgment on the case of illegal transaction of 4.5 acres of government land in Phobjikha, Wangduephodrang by the Dzongkhag Administration is still awaited. The case was registered in the court in March 2007; the trial court’s verdict was passed in September 2007. Since October 2007, the case has been in the appellate court.

Forgery and breach of contract by a contract firm in the construction works of Royal Bhutan Police (RBP) is another case which is also yet to be adjudicated by the courts. It was registered in the court in June 2009. The trial court passed its verdict in May 2011; it is currently under appeal in the High Court.

The investigation into the allegation of fraud and corruption in the procurement of equipment and spares in the Construction Development Corporation Ltd. started in August 2009 and was forwarded to OAG in December 2011. The delay has been caused due to change in investigators, non-availability of records, verification challenges of spare parts which run into huge numbers, enhancement of scope of investigation, involvement of external parties and their failure to cooperate, ex-country travel and absconding of one of the primary accused.

The case of fraud, corruption and misconduct in the procurement of text books (reference books) of the Ministry of Education was registered in the court in December 2009. The trial and

the appellate courts' verdicts were passed in November 2011 and April 2012; it is currently under appeal in the High Court.

The case of misconduct and irregular payment for works in Paro Town Phase I (RAA Report AIN 7104) was registered in the court in December 2009. The trial and appellate court verdicts were passed in April 2011 and March 2012.

There may be multiplicity of factors (e.g. transfers of judges during trials, absence of judges, prosecutorial and investigative weaknesses and abuse of court and appeal processes by litigants), avoidable and unavoidable, attributing to the inordinate delay in the disposal of cases, which have to be studied and addressed before it undermines the government's zero tolerance anti-corruption policy and erodes the confidence of the investigators and the public. Judiciary, ACC and OAG recognize the need for an effective case monitoring and follow-up systems; steps towards that may be in progress. They have to engage in dialogue with the primary objective of making the operational systems more effective, transparent and accountable without undermining their independence. OAG and ACC will sign an MOU to institutionalize a strong system of coordination and collaboration. ACC also engages the judiciary in its capacity development and in addressing practical challenges of court procedures. Capacity development of judges and prosecutors in technical matters (e.g.

procurement, financial management, etc.) is also imperative.

Some of the major cases under adjudication by the courts are:

- Bribery (over Nu.1.5 m) and excess payments (Nu. 13,008,971.43) in the construction of Rangjung VTI under MoLHR. The case was investigated in 2009; it is currently under trial in Tashigang Dzongkhag court.
- Bribery case of Liaison Officers, Kolkata. It was investigated in 2009 and registered in the court in July 2010. The trial court passed its verdict in May 2011 and is currently under appeal in the High Court.
- Bribery case of Punachangchu Hydropower Project Authority engineers was investigated in 2010 and registered in the court in October 2010. The trial court passed its verdict in October 2011 and is currently under appeal in the High Court.
- Bribery case in Road Network Project at Tingtibi (ADB Loan) was investigated in 2011 and registered in the court in May 2011. The trial court passed its verdict in November 2011; it is currently under appeal in the High Court.

The Commission provides support to the OAG as and when required. When cases are complex, investigators provide full time support to the prosecutors.

Overall, 64 cases have been successfully disposed off (brought to their logical conclusion), i.e. 56 % of the total cases (113) investigated so far, averaging 10 cases annually. Out of the 15 cases of the reporting period, only 3 cases have been disposed off.

### **Restitution**

Restitution is an important instrument in the ACC's efforts towards combating corruption. Proceeds of corruption are restituted in accordance with the provisions of the Penal Code of Bhutan. The following proceeds of corruption have been established by the ACC during the period of reporting:

- USD 990.00 in the Druk Air case wherein an air hostess was appointed through corrupt practices was revoked.
- Nu. 13.029 million from fraudulent misappropriation of health procurement fund.
- Nu. 19.557 million from fraud and bribery in health procurement.
- Nu. 4.122 million from bribery case in Road Network Project at Tingtibi (ADB Loan)

Restitution in the Druk Air case has been affected administratively. The other 3 restitutions have been prayed for in the prosecution referral and will be affected as per the court order.

### **Disciplinary Referral**

As per section 137 of ACA 2011, the ACC refers those cases to the agencies for administrative action where there is insufficient evidence and prosecution would not serve public interest. Agencies are required to submit to the Commission a report on the action taken on the cases.

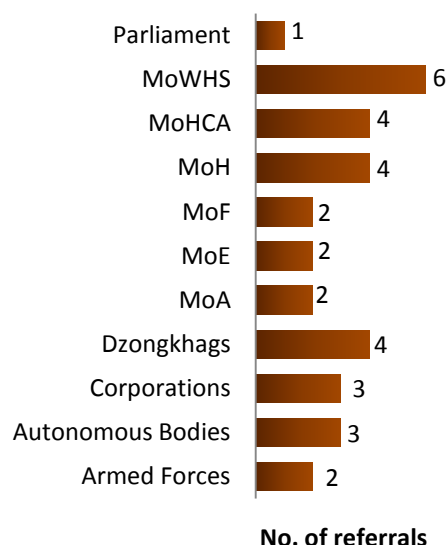
The Commission has referred 33 cases to various agencies as of March 2012 for administrative actions, i.e. 30% of the total cases investigated (see Figure 3.4).

The Ministry of Works & Human Settlement (MoWHS) has the highest number of referrals since it deals with construction. The referrals were related to excess payments, false claims and sub-standard works in construction projects and unfair plot allotments in the new towns. Administrative actions (generally reprimand) were taken by the ministry against the officials responsible for lapses in contract administration. The contract firms involved in the construction projects were suspended by the Construction Development Board (CDB) for violating the terms and conditions of CDB Certificate registration.

Referrals to other agencies were related to fictitious payments, inadmissible payments, false claims, misuse of government resources, corrupt practices in election, irregularities in tender evaluation, award of contract without following

the procedures and corrupt practices in personnel management.

**Figure 3.4:** No. of referrals to agencies from April 2011-March 2012



For the investigation of cases undertaken during the period of reporting, 3 disciplinary referrals were made, viz:

- *Unfair second phase town plot allotment in Bajo:* Findings shared with MoWHS, Wangduephodrang Dzongkhag Administration and the Royal Secretariat (following submission of public grievances) (note: case is being investigated again).
- *Abuse of functions in recruitment of a media officer in BICMA:* Shared a letter on systemic flaws with BICMA with a copy endorsed to RCSC.
- *Abuse of functions in recruitment of an air hostess in Druk Air:* Revoked the appointment and restituted the DSA of USD 990.00 to the company.

## Systemic Recommendations

Corruption investigation is not just about detecting and punishing corrupt individuals, but it also importantly concerns correcting systemic flaws for corruption prevention, raising public awareness and creating deterrence. Review of policies, practices, procedures and systems of entities which are conducive to corruption and recommending interventions to agencies are important outcomes of any investigation.

Number of systemic recommendations were made to various agencies (generally through an engagement process) such as the Ministry of Health (related to procurement of drugs and medical equipment and maintenance unit), Ministry of Works & Human Settlement (related to contract administration and procurement of works), Ministry of Agriculture and Forest (related to allotment of rural timber) and Ministry of Economic Affairs (related to mining). Systemic recommendations were also made to corporations to streamline their internal policies and procedures related to personnel management. Investigation generated systemic recommendations is also complimented by corruption risk management exercises conducted in the agencies.

Impact assessment of ACC's investigation will be conducted in an agency that has been investigated to study and review the implementation of systemic interventions in terms of monitoring and accountability mechanisms, implementation of anti-

corruption solutions such as integrity management system, efficiency in service deliveries, effective and efficient resource management, incidents of corrupt practices (reoccurrence) and awareness.

### Highlights of Cases Investigated

Some of the cases investigated during the reporting period are highlighted below:

#### **Fraudulent Misappropriation of Health Procurement Fund**

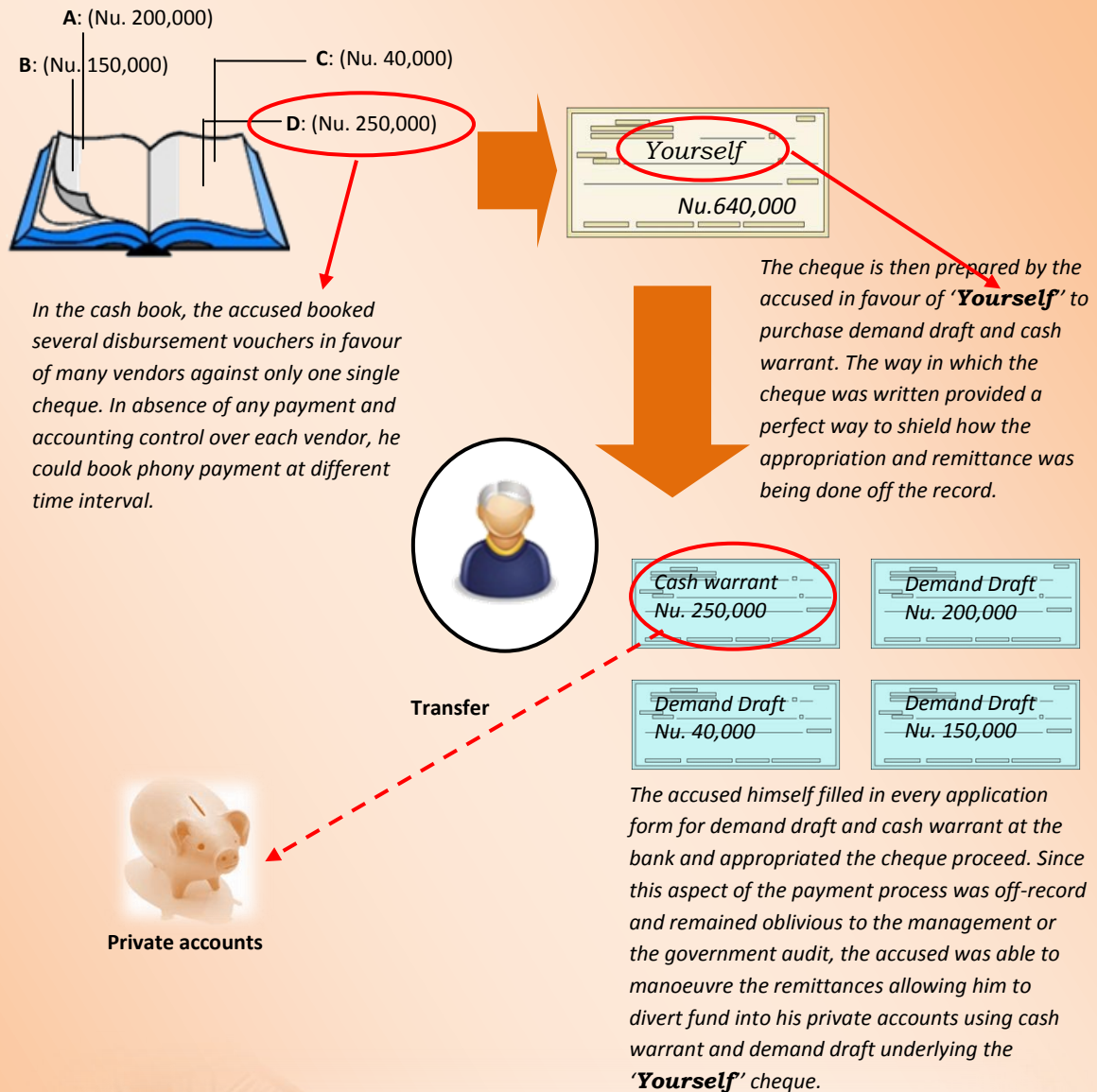
Investigation in the Ministry of Health detected fraudulent activities in dealing with procurement fund over 6.5 years. In the initial stage, 0.2% commission (generally) was retained from the suppliers' payment while remitting the amount from the Bank of Bhutan Ltd. as secret profit. Cash warrants were used to transfer money into personal and spouse's bank accounts. Overtime, a more effective way was used to siphon larger sum of money from the government account. Suppliers' names were booked on account of medical procurement to divert money for personal use. In over 4 years, at least Nu. 8.302 million was embezzled out of the health procurement fund, out of which Nu. 4.979 million was diverted to finance a private business, jointly operated with a registered license holder. This money was remitted to a business firm in India to import goods. Involvement of the accused in the private business was disguised as a 'part time' employee. Nu. 994,080.00 was fraudulently diverted to pay RAA

towards audit recoveries. The accused and his family members illicitly profited Nu. 1.454 million. In a separate incidence, Nu. 394,941.00 was deflected from the official receipt in favour of a friend. The cheque receipt pertained to previous year's employee advance and was supposed to have been remitted to the Department of Public Account as per the financial rule.

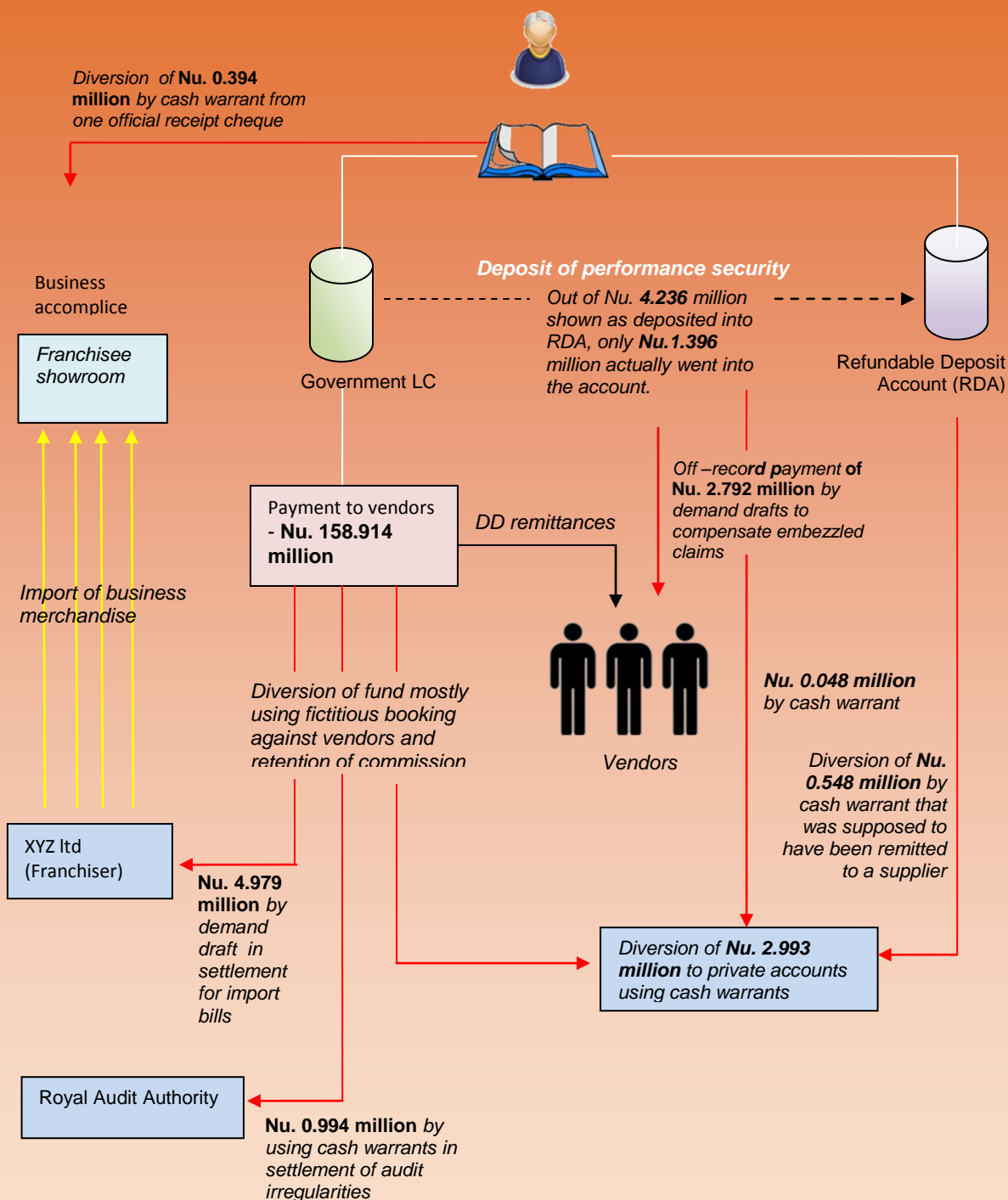
An accomplice referred suppliers' invoices, against which payment had already been made, to AFD for fraudulent payment, colluding to siphon public funds. 4 cash warrants totalling to Nu. 409,954.00 were transferred to the accomplice's bank account. Investigation also revealed misappropriation of suppliers' performance security. Then, AFD deducted 7% to 10% performance security from the full advance released to 3<sup>rd</sup> country manufacturers.

This fund which was supposed to have been deposited into the government refundable deposit account was misused to make up for payment shortfalls to certain suppliers whose claims had been embezzled earlier either for personal use or for making audit recoveries. In the book, the collection was falsely indicated as having been deposited into the designated bank account. In just 6 months, at least Nu. 3.341 million was misused from the performance security fund either in the process of effecting deposit or making refund. Of this total amount, Nu. 548,861.00 was transferred to private accounts (self, spouse & colleague).



**Figure 3.5: Modus Operandi**

### Figure 3.6: Fraud Overview



Other Nu. 2.792 million was remitted to 8 Indian suppliers in compensation for the misused payments. In order to suppress and conceal such malpractice, all official documents relating to this complaint was removed from the office. The investigation discovered that large number of accounting vouchers against which the misappropriation had occurred were untraceable in the ministry.

How could the accused siphon huge public and suppliers' funds over a long period of time without being noticed by supervisors in the ministry, bank officials and the Finance Ministry officials?

Figures 3.5 and 3.6 illustrate the modus operandi and the flow of funds.

## **Fraud and Bribery in Health Procurement**

### **Case 1**

Another investigation revealed further corrupt activities on a number of occasions spanning over 5 years. A supplier paid a bribe of US\$ 11,000.00 and Nu. 500,000 to the accused in return for the award of supply orders. Order worth Nu. 8.880 million was fraudulently diverted to the supplier (briber) despite being disqualified in the technical selection; the supplier's bid value was highly inflated. Part payment was collected in India from the supplier (was ostensibly on an official tour to Phuentsholing) even before the technical evaluation. During this meet, the accused also received a 42' inch

flat screen television costing Nu. 66,000.00. The investigation further revealed that he occasionally received advantages involving cash, expensive gifts and other benefits from the same supplier in the past as well. Of the Nu. 300 million tender for the procurement of medical equipment for the 2 referral hospitals, viz. JDWNRH and MRRH, only 4 suppliers were selected, of which the supplier (briber) alone bagged more than Nu. 191 million (60%) of the contract.

The investigation also revealed that at least Nu. 500,000.00 cash had been accepted from another supplier. The supplier continued to receive more orders despite having supplied defective items. Favours (in kind) were also solicited from yet another supplier.

The accused has an unexplained income of over Nu. 6.0 million, as sufficiently implied by disproportionate assets and liabilities.

### **Case 2**

In another incidence, the accused as the head of a department was actively involved in the procurement of supplies. As a technical representative from the respective medical field, heads of departments representing in the tender selection committee tend to have tacit influence in selecting a bid. At least US\$ 7,000.00 cash was offered by a supplier for the award of contract under the department. The supplier (briber) was selected and awarded an order worth Nu. 189.397 million forming almost the entire

contract based on his preference for a brand which he claimed to be as per the 'government policy' although no such approval existed. Although, one vendor had offered the same brand product at a lesser price it was rejected on a flimsy ground during the technical evaluation, causing a loss of at least Nu. 7,34,342.00 to the government.

The accused acted independently to prevent the incompatible supply from being rejected, although a competent user in the department had done so. In one year, the supplier supplied 8 items valued at Euro 5,056.00 without other accessories; a subordinate staff was made to accept and pass the quality control despite being fully aware of incomplete supply and abstained himself from signing the inspection sheet. In the following year, the orders for remaining accessories were placed at an additional cost of Euro 10,506.00, which were incompatible for the proposed use. Although a specialist rejected the equipment during the quality inspection, the accused instructed the receiving store to retain the supply despite being informed by his staff that the supplied devices could not be used for the intended application. After allowing the supplier to supply the items in 'bits' and 'bits', the equipment worth of Euro 15,562.00 could not be used ultimately and yet the accused acted in a way to prevent the supplier from being affected. This incidence happened after the "trip" sponsored by the very supplier.

Prior to the tender selection, the accused was paid Nu. 500,000.00 by another supplier to influence the bid selection. The supplier quoted Nu. 3.545 million for the same equipment which he offered in the preceding year at just Nu.1.519 million; selection was made in the supplier's favour. Bid for the very brand that the individual promoted in an earlier tender by another supplier was ignored even though the price was competitively less. The erratic and wavering basis to award contract when it came to major equipment was not driven by the product but by whichever supplier was willing to offer him bribe. The supplier was also awarded an order for 15 numbers of an item at a cost of Nu. 3.855 million despite the supplier having supplied defective items in the previous year.

The accused received an additional amount of Nu. 50,000.00 from the supplier in return for information on the supplies for an upcoming tender.

### **Case 3**

About 358 essential medicines were tendered in early 2008. 2 consecutive retenders were called few months later. The retender was partly prompted by preemptive elimination of a vendor on the ground of unsatisfactory performance rating. This vendor was rated below 75% based on supplies executed in the previous year. The rating system was, however, based on the appraisal of the accused and was imposed on the vendor only after having opened its bid, which turned out be the potential lowest

bidder in most of the items. Further, the minimum rating threshold was inconsistently applied from year to year without any documented record of decision or approval of the higher authority. For example, in 2006-07 the performance rating of 60% to 80% was graded as 'Very Good' but in 2008-09, rating of 75% or below was considered as ground for debarment. The debarred vendor otherwise turned out to be the sole bidder in at least 22 ranges of drugs.

Several of these drugs were subsequently retendered and allocated at highly inflated price to the vendor who colluded with the accused. The price difference ranged between 20% to 150%. For example, the debarred vendor offered an item at Nu.56 per tablet. The same item of same brand and make was subsequently awarded to the preferred vendor, who did not quote in the initial tender, at Nu. 102 (higher by over 82%) per tablet in the retender. Without assigning any justification, about 11 drugs were marked for retender despite having been quoted by more than one vendor. Out of this, 7 drugs were again allocated to the same preferred vendor at higher rates.

Major fraud occurred in case of 2 specific drugs that were procured in greater quantities. The accused whose role was to guide and assist the committee knowingly reserved vital information from other committee members that was material in making informed decision despite the fact that composition of tender committee

members kept changing in each sitting. About 3 drugs in the first tender were retendered by the committee citing that the offered bids were excessively higher compared to the past accepted price. Ironically, 2 drugs were subsequently awarded to the preferred vendor at even more exorbitant rates. For example, the committee decided that one drug that was quoted at Nu.88 per tablet by one vendor should be retendered because in the past years, the same drug was supplied at just below Nu.5.70 per tablet. However, in the subsequent retender in 2008, the supply of the drug was awarded to the preferred vendor at Nu.117 each. Based on the 2 previous years' rates, the Ministry of Health overpaid the vendor anywhere between Nu.1.446 million to Nu.1.465 million just for one single drug.

In a separate instance, one drug which was previously selected and awarded to another vendor in the initial tender at Nu.0.75 per tablet was subsequently reallocated to the preferred supplier at Nu.8.25 per tablet resulting in an excess payment of Nu. 3.240 million. In order to make the preferred supplier appear as a sole bidder for the specific drug, the accused preemptively disqualified the bid of another vendor who quoted this drug for just Nu. 0.34 per tablet.

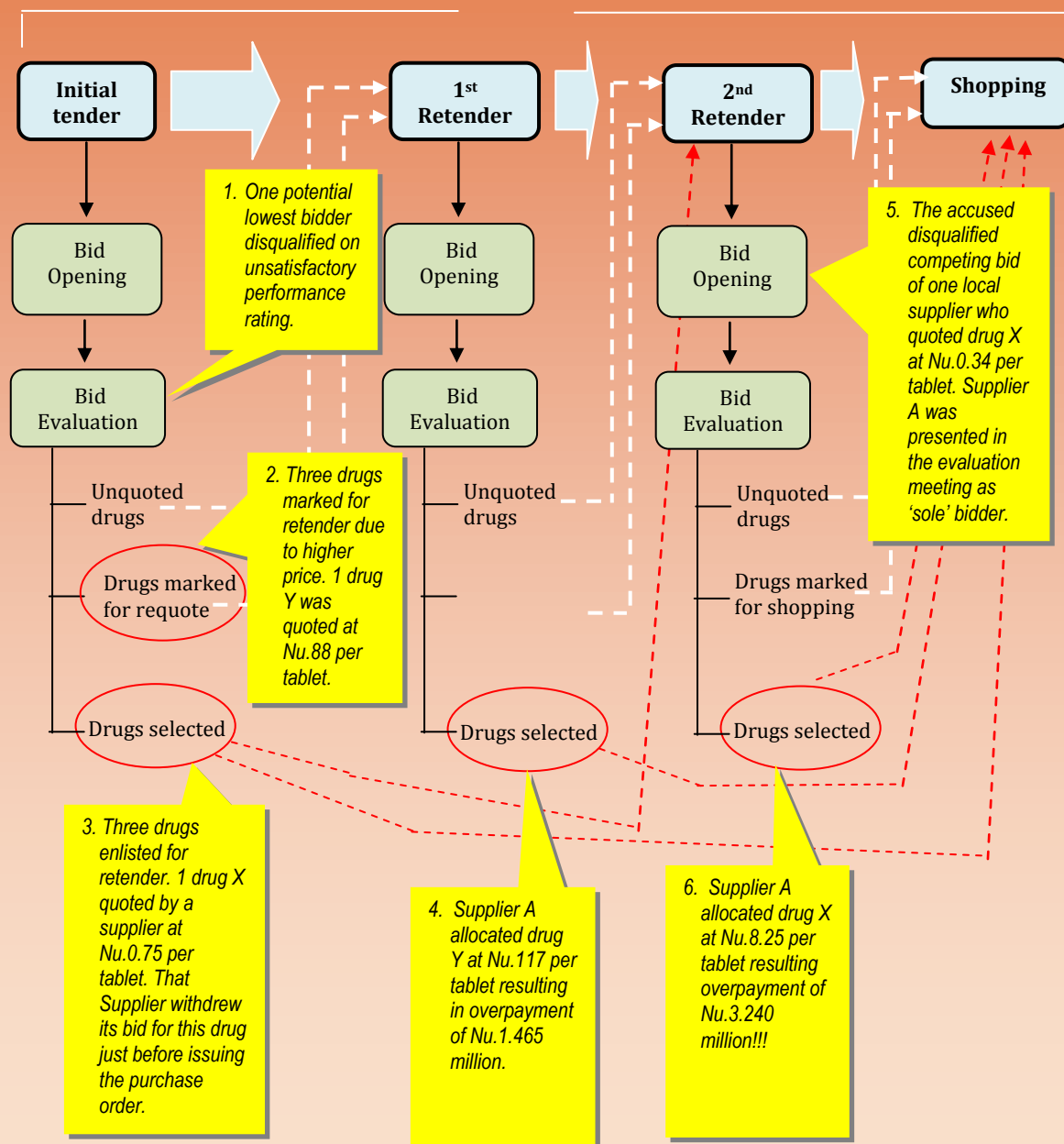
RAA has recovered over Nu. 3.0 million.

The preferred vendor was awarded more than 30% (Nu.24.120 million) of the total essential drug tender in return for pecuniary gratification.



**Figure 3.7: Drugs Retendering Scam in 2008**

The accused withheld material information from tender committee members during the evaluation and steered the selection of certain overpriced bids of a supplier. He suppressed and disqualified other suppliers' bid in order to present Supplier A to tender committee as a sole bidder. He then appraised them with such information that accentuated the ground to select the bid such as WHO prequalification, quality issue, exigent requirement, etc. while withholding adversarial information about the significant price discrepancies.



As in most cases of health procurement, the tendering process lacked adequate supervision, established and transparent evaluation criteria and process, due diligence by tender committee members, transparent supplier registration and performance rating system and administrative procedures to approve retenders and relied heavily on subordinates. Such an environment provided unrestrained opportunities to corrupt officials to collude with suppliers.

Figure 3.7 illustrates the modus operandi.

#### Case 4

This is yet another case of fraud and corruption in health procurement. For 9 years in a row, the accused has been actively involved in almost every tender selection meeting of the Drugs, Vaccines and Equipment Division (DVED). The prolonged tenure of the accused nurtured corrupt nexus with suppliers. The accused was also the signing authority in approving and disbursing payments to the suppliers. He abused his official position to solicit and accept corrupt advantages from the suppliers: US\$ 5500, Nu. 200,000 and a jewelry piece costing Nu. 50,000 from a vendor; on various occasions he accepted at least Nu.3,96,000 from another vendor and solicited benefits worth Nu. 358,889.50 from yet another supplier. Living standard of the accused is far beyond the affordability of any ordinary civil servant. He has unexplained wealth and properties worth over Nu. 5.0 million. The accused

flouted ethical code of conduct and used his official position to seek personal favors and advantages from suppliers and contractors having serious conflict of interest with his public duties and responsibilities.

In the Health Ministry, suppliers enjoyed 100% advance with only 10% performance security. Financial terms of contract generally suited the interest of suppliers. Grievances of bribe paying suppliers were addressed fervently with little regard of potential financial detriment to the government. In the absence of any internal control, unhealthy accounting practices, particularly concerning the operation of health procurement fund was riddled with fraud, abuse and illicit activities (ref case 1). Through fraudulent and deceptive accounting practices, government has been defrauded of Nu.8.697 million from as many as 53 government cheques and Nu.3.341 million from suppliers' performance security fund. The accused failed to take any corrective actions despite his knowledge of compelling incidences that suggested potential fraudulent activities in his division.

#### Proactive Investigation

A proactive investigation's main objective is to, "Examine the practices, procedures and systems of public or private sector entities to facilitate the discovery of offences under chapter 4 of ACA 2011 and to secure the revision of such practices, procedures or systems which in the opinion of the Commission may be conducive to

corruption.” (section 25 (1) (b) of ACA 2011).

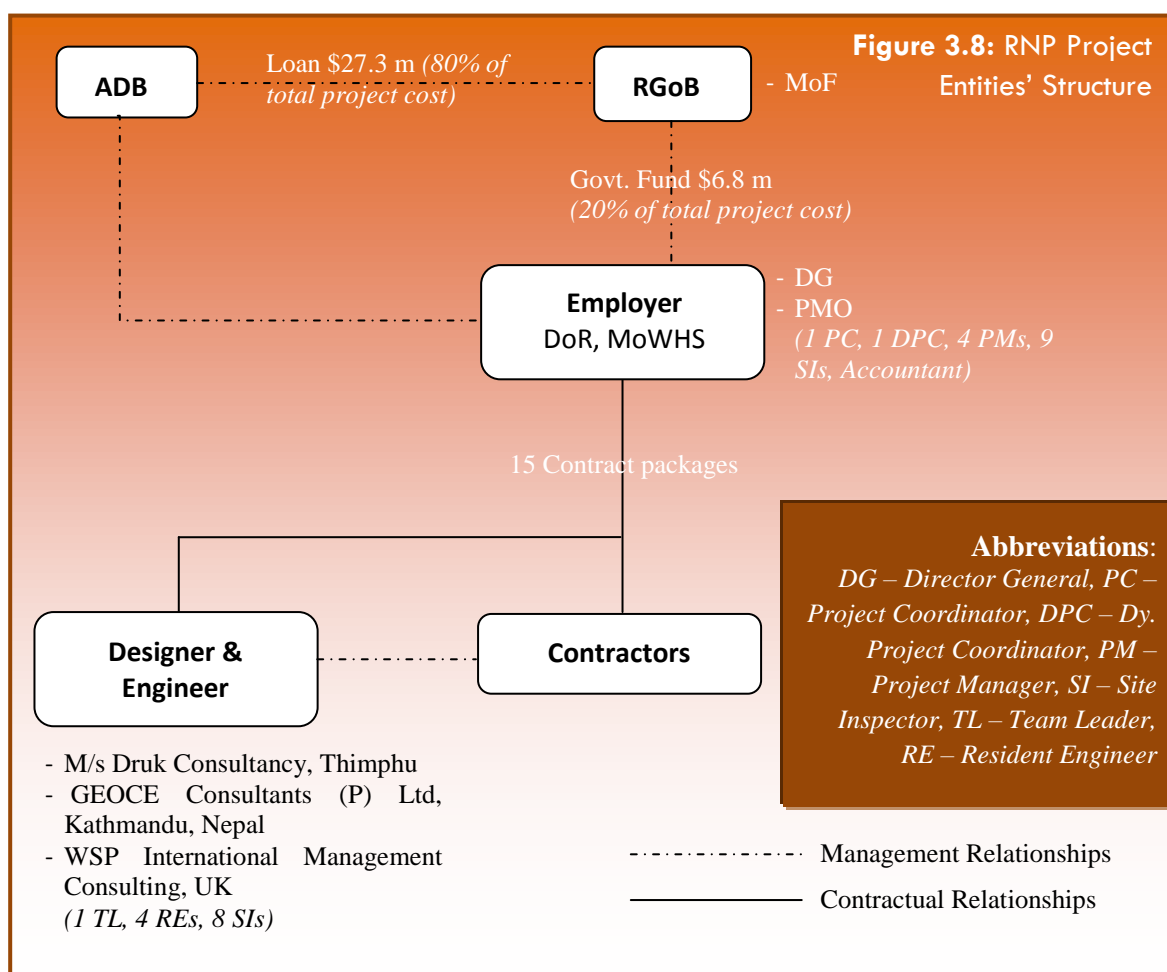
Such an investigation is conducted before, during or at a time that a crime is being committed or planned to be committed. Section 24 (1) (d) of ACA 2011 empowers the Commission to conduct an inquiry or investigation on its own motion even without a complaint and without informing any person or authority.

Proactive investigation was conducted into the bribery case of a package at Tingtibi of ADB Loan Road Network Project (RNP 1). 2 engineers, employees of GEOCE Consultant (P) Ltd. Nepal, were soliciting bribes from local contractors engaged in RNP works. The total cost of the project,

which had 15 packages, was US \$ 34.1 million. Construction supervision consultant (CSC) was an ADB loan covenant, which was procured at a cost of Nu. 65 million. WSP-International Management Consulting, a UK based firm, was the principal consulting firm; GEOCE (P) Ltd., Katmandu, Nepal and M/s Druk Consultancy, Thimphu, were its subsidiary partners.

Figure 3.8 shows the management structure of the project

The Project Management structure had certain flaws. CSC had total authority in technical matters. The Project Management Office (PMO) in Trongsa and site offices at respective project sites had only administrative support



roles. This reduced the national counterpart set up merely to a clearing agent, subservient to CSC. Such a structure had removed the check and balance role and the transfer of technical expertise. While there was a parallel physical set up with counterparts at different levels, it was only in terms of structure. Synergy and value addition of adding a physical layer in the project management structure was not observed in terms of the quality of work done at sites.

Under such a management structure, technical personnel had huge influence over the contract firms. Materials to be used had to be tested. Certain adhoc tests were observed to have been done. However, mere testing of materials in an adhoc manner did not solve the problems. There was no proper documentation and follow up of tests conducted. It created leverage for the technical personnel to take advantage. Testing of materials was used as a means to coerce contractors to give bribes on the pretext of failing the tests. The loan covenant of quality assurance became the very instrument for perpetrating corruption.

The investigation established that an engineer received a bribe of Nu. 1.0 million in consideration for allowing the contractor to recommence the road work that was previously stalled by him allegedly for using unacceptable construction materials. Further, he had also received Nu. 0.32 million in addition to a Druk Air ticket from another local contractor. Another engineer had received Nu. 0.45 million

as bribe under the pretext of allowing the contractor to use materials that would otherwise deviate from the required specification. The engineer possessed additional Nu. 0.39 million which was not from his lawful source of income.

A resident engineer (did not return even though the contract had not expired) and a site inspector (absconded), were also suspected of having solicited bribes from the contractors but the employer failed to repatriate them.

Project management offices have to be given the authority to perform and be held accountable for failures to perform; effective monitoring system has to be put in place. Further, the Ministry of Finance has to review the value of such costly imposition by development partners that places great burden on the country without any assurance of inherent benefit or plausible alternatives have to be explored to achieve what the imposition intends to achieve. The investigation did not establish any difference in quality between the CSC supervised works and Department of Road executed projects.

### Challenges of Investigation

The high success rate of prosecution and conviction of ACC's investigation is simply sheer perseverance and perspiration of the investigators. Investigation of white collar crime such as corruption in itself is a challenge and even more so in an environment of social interconnectedness, weak

enforcement and poor accountability that patently perpetrate impunity, deep fear of reprisals, cynicism and sense of resignation. Difficulties arising from shortcomings in legislations and their interpretation, weak service delivery of agencies in particular the courts and custodians of information and data (time is of essence in an investigation), lack of cooperation, poor record keeping and not the least of all ACC's own lack of (legal and investigative) capacity, numbers and competencies, also pose huge challenges to the investigation.

Another serious challenge is involvement of non-Bhutanese in corruption, who are generally partners in crime. Investigation is potentially hampered because of either non-availability or non-cooperation. As cases become complex and involve huge public resources, dialogue for cooperation and mutual legal assistance with few countries in the region may become imperative.

Absence of surveillance and intelligence infrastructure is yet another overwhelming challenge for the ACC. Conventional techniques and procedures are fatiguing, inefficient and ineffective. Efforts are being made to build intelligence capabilities and networks. It is resource intensive and demands highly specialized skills. However, in view of the huge public funds that are being wasted and stolen and which can be prevented, the investment is imperative. Study visits to the anti-corruption agencies in the region and participation in international conferences for law

enforcement agencies have been undertaken. Specialized trainings for the investigators are also being conducted both in and ex-country.



# SECTION 4:

## CHALLENGES

The annual reports of 2009 and 2010 highlighted the challenges of recruitment and retention and the high level of political and societal tolerance for corruption despite the intolerant anti-corruption policy. This report reiterates the challenge of mainstreaming anti-corruption measures into the programs and systems, which is amply highlighted under section 3 of the report.

Good governance is a critical development imperative that has far reaching impact on all the other pillars of GNH. And the fight against corruption is a critical governance imperative that impinges on the integral values of democracy and GNH. Hence, anti-corruption measures or development of national integrity systems should feature in the national and sectoral key result areas and key performance indicators under the governance pillar of the 11<sup>th</sup> five year plan.

The NACS, which was adopted by the government in 2009 as an important instrument of mainstreaming anti-corruption measures in the governance system, is an operative of the government's anti-corruption policy of "*Zero Tolerance for Corruption*." Its strategic considerations of (a) promoting leadership, (b) ensure sustained political will (c) review legal framework, (d) review and strengthen institutional capacity, (e) review and

refine systems, (f) develop long-term educational strategy in building an awakened citizenry and (g) promoting partnership is a holistic approach towards building a strong national integrity system that minimizes opportunities for corruption and combats it. And effective monitoring of NACS' implementation is critical as it highlights the adequacy and effectiveness of national anti-corruption efforts, strengths and weaknesses of integrity systems and helps develop more effective anti-corruption reforms and advocacy programs.

Further, NACS is not an exclusive responsibility and domain of the executive arm of the government alone. It is also an important responsibility of the critical pillars of the country's integrity system, viz. (a) judiciary, (b) legislature, (c) election commission, (d) supreme audit authority, (e) anti-corruption agency, (f) civil service commission, (g) public sector, (h) police and prosecutors, (i) local government, (j) political parties, (k) media, (l) civil society, (m) private sector and (n) development partners. It is about these institutions' will to fight corruption that manifests in their anti-corruption activities, laws and procedures and accountability and integrity management systems.

Besides NACS' implementation covenant, section 36 (1) of ACA 2011

which states, “Public agency heads shall have the duty to develop, maintain and implement anti corruption measures in their individual agency, whether or not as a result of investigation of corrupt conduct in their agencies” also places important anti-corruption responsibility on the heads of agencies. However, as reported under section 3, even as NACS enters into its 3<sup>rd</sup> year of adoption by the government, its implementation has remained sluggish because of the absence of monitoring and accountability. The National Assembly in its 4<sup>th</sup> session (November 2009) reiterated the need for the government to take ownership of NACS, ensure its implementation and to report to the Parliament on the matter; in 2011, the National Council resolved to monitor its implementation. However, monitoring the implementation of the parliamentary resolutions is in itself another challenge.

Only 35 entities responded to the ACC’s request of sharing the implementation status of NACS. Few agencies at the helm of affairs have either nothing substantive to report or remain in the psychological comfort of their agencies being a low risk with regards to corruption. Some report of having a system of declaring conflict of interest; some do not even see the need to formulate a code of conduct at this juncture. And there are some who do not know about NACS. As long as the entities recognize the importance of integrity in dispensing their responsibilities and conducting business and commit resources (will, leadership, funds and people) in building a culture of integrity in the

entity, not knowing the existence of a document called NACS may not be a serious cause for concern.

Mainstreaming good governance, however, goes beyond merely encouraging public servants to declare conflict of interest or having a code of conduct in the service rules. Ethical leadership and culture have to be nurtured; systems have to be reviewed, refined, streamlined and simplified to foster a culture of integrity, sense of responsibility and accountability. NACS is a move towards building such a culture. However, the prevailing culture of impunity, non-accountability, weak and discriminate enforcement of laws and high level of tolerance for corruption (e.g. action-of-sorts against corrupt public servants and those that allow corruption to perpetrate, employing individuals convicted of fraud and corruption, and reprisals suffered by whistleblowers), weak articulation of anti-corruption policies into comprehensive institutional action plans and their monitoring and not the least of all ineffectiveness of oversight institutions such as the ACC pose a serious challenge to the implementation of NACS, which is core to building a strong national integrity system and hence a strong democratic culture.

Only people in positions of power and influence and leaders in the critical pillars of the country’s integrity system can change the prevailing culture and it is their paramount responsibility. And citizens can catalyze that process of change.

# SECTION 5:

## CONCLUSION

Countries and institutions the world over recognize corruption as a menace that afflicts the society at large. Regional and international coalition is being forged not only to share best practices to contain corruption but to combat the menace together especially as it is increasingly becoming more complex, organized and transboundary. Academic institutions are being established to train and equip the anti-corruption cadre to fight corruption effectively and to enrich the body of knowledge on corruption through research. Development partners are exploring ways of helping countries in combating corruption, while also ensuring that their tax payers' money is used meaningfully.

As the report highlights, Bhutan is not lagging behind in the fight against corruption. She is considered as one of the most effective countries in fighting corruption in the region and beyond. General public awareness on various aspects of corruption has been created and a perception of deterrence from corrupt behavior prevails. However, in the face of economic growth and material prosperity, major challenges confront Bhutan. The rupee crunch is symptomatic of the challenges. Nurturing a culture of democracy that consciously reinforces public trust, strengthens national harmony and stability is yet another challenge.

Bhutan cannot afford to bask in her past glory and economic laurels. The report highlights her vulnerability to corruption, especially as a small country. The Transparency International CPI score of 5.7 places her in either declining phase of corruption or resurgence of corruption; the direction that Bhutan takes will depend on the commitment of the leaders and the citizenry to walk the talk of "Zero tolerance for corruption." Complaints and investigations highlight procurement, land and personnel management as the most corrupt sectors. Weak organizational oversight, weak management, weak enforcement of laws, poor internal control systems, poor accountability, absence of effective grievance redressal mechanisms, *kidu* culture and lack of protection for whistle blowers are some potential causes of corruption.

Public trust is a vital public good that can only be sustained by a strong system of governance, which in turn is sustained by a strong institutional integrity action plan that encompasses ethical leadership, staff integrity, systems integrity and monitoring and deterrence. Leaders should publicly pledge their commitment to adopt institutional integrity by issuing a public statement on business ethics, value and zero tolerance, should allocate resources for institutional integrity activities, establish a

declaration system for conflict of interest, formulate ethics policy, integrity strategy and action plan and coordinate the same. Leaders should personify honesty, integrity, justice and dignity and lead by example. They must consciously set the tone of “I will not be corrupt and I will not tolerate corruption in you, my employees” and walk it without any compromise.

Bhutan, a small great nation, is spiritually (compassion, wisdom, interdependence, impermanence and law of cause and effect), politically (caring and wise monarchs, political leadership and democracy) and socially and culturally (cohesiveness and harmony, contentment and happiness, respect) endowed. The successful and skilful leadership role that she has played in shifting the development paradigm of the world at a time when countries are fraught with crises demonstrates her potential to build an incorruptible Bhutanese society that will not tolerate corruption. From the happiness champion, Bhutan can be a natural anti-corruption champion! After all, corruption is antithesis to happiness!

*“National prosperity hinges on quality of governance and quality of governance on quality of leadership.”*







# **Mandala of the Ultimate Truth: ACC's New Office**







## Anti-Corruption Commission

[www.acc.org.bt](http://www.acc.org.bt)



*Lead by example*

Thimphu.  
Post Box No. 1113  
Tel: +975-2-334863 /64/66/67/68  
Fax: 334865