



“
Corruption
is unambiguous-
there is no great
or small corruption.
And no one can be
above the law.”

VISION: To strive towards building a happy, harmonious and corruption free society.

MISSION: To eliminate corruption through leading by example, achieving excellence in partnerships, and mainstreaming anti corruption strategies/measures in public/private organizations.

To build an in-corruptable society that upholds the values of Right View, Right Intention, Right Speech, Right Action, Right Livelihood, Right Effort, Right Mindfulness & Right Reflection.

His Majesty's 107th National Day Address (an excerpt)

“

Last year I expressed concern about certain economic situations. We were burdened with debt, and rupee shortage led to acute liquidity crunch, putting pressure on banks and hampering businesses, and causing inflation. These problems continue to persist.

Our national ambitions and the corresponding workload are increasing progressively.

The budget for the 9th five-year plan was Nu. 70 billion and one hydropower project was initiated during that time. During the 10th five-year plan, the budget increased by over 100% to Nu. 146 billion and 4 hydropower projects were initiated. With the 11th five-year plan, we have a budget of more than Nu. 213 billion, and besides the Kholongchu project, feasibility for 4 more hydropower projects are being considered. This means in the near future, we will be tasked with the implementation of 9 hydropower projects, which is a heavy responsibility for the government.

“The highest probable risk to development I foresee is corruption.”

It is good to be ambitious. From one standpoint, more is better and having something is better than not having anything at all. But we must also realize that increased workload compounds associated risks and possible failures. We must ask ourselves, 'are we willing and able to take on this responsibility? Can our financial resources be matched by our human capital?'

The main aspiration of the people is that the 11th plan will succeed, and prosperity will grow all around the country. The realization of this goal depends more than ever on the government's commitment to good governance, which should include check and balance, openness and transparency. The people must take individual responsibility and make a collective effort, instead of depending solely on the government.

The highest probable risk to development that I foresee is corruption. Our national development efforts will be hindered by unchecked corruption. The formulation of plans and programs may be done well, aimed at the wellbeing of the people. Impressive amount of budget may be disbursed in line with these plans. But as the activities become too numerous, oversight and monitoring may fall short, allowing some people to be corrupt. Although a large amount of resources are spent, projects may not be accomplished as designed and quality of the projects may suffer seriously. At the end, such activities may become a matter of regret and disillusionment for the people and immense loss for the government and the country.

“But there is an even greater threat-ignoring corruption”

Corruption is unambiguous- there is no great or small corruption. And no one can be above the law.

But there is an even greater threat- ignoring corruption. When the corrupt are not held to account, those who observe due diligence, work hard and professionally are most likely to be discouraged. We mustn't allow the latter to lose morale by rewarding everyone indiscriminately, irrespective of his or her performance. That is why, corruption must be curtailed and, more than ever before, extraordinary service must be recognized and rewarded.

We are at the crossroads where the decision to act will make all the difference between success and failure.

”

4th Druk Gyalpo's Commands



To the Judges

1. "However big the matter in a case may be or whatever type of case it may be, it should not take more than 198 days and even two months is more than sufficient for such a case. If a case cannot be decided, it should be reported to the High Court and decided as per the orders, instead of delaying". (Order issued on 23 August 1984, following Tshogongma Tshering's petition against the court's non-responsiveness to his case)

"As most of our common people approach the courts as a final resort for justice, the number of litigations is increasing these days. Therefore, you must find ways to adjudicate efficiently, and minimize the wastage of their resources and energy". (1986)

"The peace and happiness in a country depend on how properly, strongly and impartially the laws are governed. Therefore, it is important to select capable, impartial and good persons as Judges in High Court and Dzongkhag courts". (on appointment of judges, 28 June 1989).

"All the people in Bhutan, be they the royal family, a civil or armed officials and the citizens, whether rich or poor, are equal before the law. Hence, anybody who is aggrieved can approach the courts. (19 September 1996)

To the Planning Commission

2. "Our policies should altogether support the economic development, culture, religion and political system in order to achieve the objectives of our country and to strengthen and safeguard our identity.

We should find ways of improving the per capita income from the internal resources to achieve the objective of self-reliance.

We should protect our intact environment in order to enjoy a better health.

Every individual must understand the need and importance of the objectives of the government and bear equal responsibility to promote the system of co-operation between our people and government.

Our government should be able to bear the responsibility of executing the functions for the benefit of the people and the country, and our people also should support in creating a strong and trustworthy government". (27 September 1986).

To the Secretary, Royal Civil Service Commission

3. "As regards the general transfer of the government servants in different departments, it is appropriate to transfer technical persons according to the policies framed as per the specific requirements of the government. But a system of transferring other civil servants once in three to four years depending on their qualification and capability should be gradually framed.

This year some civil servants who are not required in departments in Thimphu were asked to resign, some were terminated and some were transferred. In the same manner, such policy should gradually be introduced in the dzongkhags after necessary investigation.

The number of modern civil servants working for their private interests in contravention of Royal Civil Service Commission rules are increasing yearly. Therefore, it is decreed that you should review the sections of the Bhutan Civil Service Rules, which prohibit such acts and amend them if necessary". (30 October 1985)

4. "Our government servants are promoted after the completion of their term in their grades, without considering their capability and without ascertaining the requirements of such persons in such grade in different departments. Due to this situation, there are many officers of same grade in one department, which causes inconveniences.

To achieve the goals and objectives of our government the following matters need to be considered during promotion:

In proportion to the size and responsibility of the department, a proper hierarchy of officers should be introduced for creating a congenial work environment.

Secondly, before promotion their capability and the results of their work should be assessed. You must see whether the person worked with allegiance and if they really deserve promotion.

If they are promoted mechanically on the expiry of their term, it will affect the resolve of civil servants to serve our government well". (8 January 1986).

5. "All the foreign aid should be spent on the development of the economy, health, education, agriculture and animal husbandry etc., of our community, which are directly beneficial for the common people. You know the objective of making our domestic revenue sufficient to meet the overall administrative expenses and a decree of reminder was passed last year before the beginning of the seventh plan.

However, there has been a shortage of Nu. 240 million within six months of the first year of the seventh plan, and loans amounting to Indian currency of Rs 1,420 million and US\$93,234 has to be repaid. I was worried for this reason and it was decreed in the meeting of ministers and officials in the Ministry of Planning that you should control the wastage of government property. It was further decreed that you should promote the outputs of our civil servants and concentrate on the programmes necessary for the common people. You were told to review the system of management for more peace and happiness.

Today when the ministries and departments are trying to find ways of curtailing the expenses, the civil servants must be given responsibility according to their capability. There must be a strong results-based evaluation system rather than cancelling or postponing planned programmes and decreasing human resources. Instead, the departments have enlisted 300 civil servants as incapable and liable to be terminated.

The civil servants who did not serve with their utmost capability and with interest in their responsibility deserve to be terminated. But the rest cannot be terminated without giving them the responsibility according to their capability from the very beginning. Therefore, it is decreed that if there are civil servants in the ministries and departments without relevant jobs, they should be transferred to the departments where they are required. They should be given jobs according to their capability". (22 April 1993)

To the Special Commission

6. "If we are to remain sovereign for all times to come, it is important for us to serve our country with loyalty and dedication. Our government and public should think as one and protect our identity, culture and etiquette". (23 July 1985).



Land Kidu

7. "As our country depends mainly on agriculture, the number of people applying for land kidu from the Druk Gyalpo is increasing daily and some people do so even when they have sufficient land. Therefore, both genuine and frivolous applications need to be investigated. That in turn would take a long time causing more trouble to the needy applicants. On the other hand, if it is given without investigation, gradually all the government land will be exhausted. In future, there will be no land to be awarded as kidu for the landless, as thousands of acres go as kidu. It would also affect our forest, which is the source of our income. Henceforth, there will be no land kidu for those residing under the same roof as one family with three or more acres of land in their name including wetland, dry land and kitchen garden but excluding pangzhing and tseri. In order to avoid harassment to our people, it is decreed that the dzongdas, the gups and the chimis should explain this to our people". (22 August 1985)

To the Head of the Land Record Office

8. "In order to avoid the shortage of land for the future generations, it is very important to be strict from the beginning only in transferring and registering the land by changing the type of land which may be registered in one's name. Moreover, the office of land record must be very careful and should not deviate from the Land Act, and should be very strict, as far as possible, in cases where tsamdo (pasture land), sokshing (wood-lot), garden, etc. are sold or given for free and needs to be transferred from one name to the other. You should be careful in changing the type of land, for example: while changing kamzhing (dry land) to chhuzhing (wetland), making dry land and wet land into garden and where there is a need to change the type of land". (2 August 1985)

To the Home Minister

9. "These days, people of different Dzongkhags are constructing buildings and these people are the ones who come to ask for kidu. However, with the increase in the number of buildings it is important that they should meet the standard of design and sanitation. Henceforth, beginning with the sixth plan, next year, the houses in the communities shall be classified into house numbers 1 to 4 and the toilets and smokeless ovens should be constructed inside the house. The practice of keeping domestic animals in the ground floor should be abolished. The government should frame rules for constructing buildings providing electrification in future and publicize such rules. The government must also frame policies to decrease the costs of construction materials such as soil, stones and timber. People should not ask for kidu of constructing new buildings till such policies and rules are publicized". (24 September 1986).

To the Deputy Minister of Finance

10. "Despite my decree dated 29 August 1980 to the Home Minister stating that I alone and no other person can grant land kidu, the Home Minister and some royal family members have granted land in contravention of my decree. It is hereby decreed that you should investigate as to who have given the land without any order, with effect from the above – mentioned date and cancel such lands even if they are registered in someone's name and declare them as government land within December 1985." (2nd July 1985)

To the Deputy Minister of Health and Education

11. "It is the responsibility of our people to strengthen and safeguard our sovereignty and maintain peace in the country. Our government recognizes children as an important national asset. Thus, it is very important to promote their education and good moral conduct. For this purpose, 288 schools have been established as a basic foundation and our government has kept Nu. 1,739 million as education budget. And, the developments in education, which have taken hundreds of years in other countries, have taken place in Bhutan in the last 35 years. However, to achieve the objective of giving our children good education and productive jobs, there is a need to review
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the policy of education and refine them wherever necessary". (8 January 1996).

To the Speaker of the National Assembly

12. "It is important to promote people's participation in the system of decision-making. There is a need for a permanent system of administration that should be able to provide a fair and effective management as per the responsibilities of our people. There is also a need for a method of check and balance, and limitation, to safeguard the national interest and security in the system. In order to achieve this objective, the idea is to amend the old system of the Cabinet Ministers as an important step of procedure, and elect the ministers through voting and establish an independent council of ministers with full executive powers for an effective administration". (10 June 1998).

Silver Jubilee Commemoration

13. His Majesty expressed the desire that if at all the occasion has to be marked, (i) it should help enhance the ability of the Government to be sensitive and responsive to the needs of the people and that national commitment to shared aspiration be renewed and revitalized, (ii) that initiatives are taken to raise public awareness and determination to prevent the evil of corruption from taking root in our society, and (iii) that the morale of the civil service is improved (Command to the Cabinet after persuasive submissions on the Silver Jubilee commemoration of His Reign, 1998).

The Anti-Corruption Commission

14. "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 of position, in the course of discharging her important responsibilities". (31 December 2005).

The Last Kasho – Abdication

15. "As I hand over my responsibilities to my son, I repose my full faith and belief in the people of Bhutan to look after the future of our nation, for it is the Bhutanese people who are the true custodians of our tradition and culture and the ultimate guardians of the security, sovereignty and continued well-being of our country". (9 December 2006)

Source: "Portrait of a Leader: Through the Looking-Glass of His Majesty's Decrees", Mieko Nishimizu, *The Centre for Bhutan Studies*

On the joyous occasion of the 4th Druk Gyalpo's 60 Birth Anniversary, the Anti-Corruption Commission has no material offering to make. Its only humble offering is to live the timeless spirit of the Commands, which is and will continue to be the beacon in its long and arduous journey of fulfilling its important mandate to prevent and combat corruption.



Dzongsar Jamyang Khyentse

31st December, 2014

Dear members of the ACC community

On this special day, commemorating the ninth anniversary of the founding of the Anti-Corruption Commission, I, as a citizen of the Kingdom of Bhutan, would like to express my deepest appreciation and gratitude for all you have done.

As the greed and selfishness of humankind never seems to cease, yours is a task that may never end or come to full fruition. But yours is also a task whose contribution to the very root of nation building, to building harmony in society, and to laying the foundation of democracy, cannot even be fathomed.

I truly consider the very existence of an institution like ACC as great blessing to our country. But in the past nine years, you have demonstrated far more than mere existence. So, with my heartfelt prayers and aspirations on this special day, I would like to encourage all of you to keep up your good work.

Dzongsar Jamyang Khyentse

ABBREVIATION

ACA	Anti-Corruption Authority
ACAB	Anti-Corruption Act of Bhutan
ACC	Anti-Corruption Commission
ACRC	Anti-Corruption & Civil Rights Commission, Republic of Korea
AD	Asset Declaration
ADA	Asset Declaration Administrator
APRC	Asia Pacific Regional Centre, UNDP
ASEAN	Association of Southeast Asian Nations
BBS	Bhutan Broadcasting Service
BCCI	Bhutan Chamber of Commerce & Industries
BCSR	Bhutan Civil Service Rules
BDBL	Bhutan Development Bank Limited
BIG	Basel Institute on Governance
BOBL	Bank of Bhutan Limited
BPCL	Bhutan Power Corporation Limited
BTI	Bhutan Transparency Initiative
BTL	Bhutan Telecom Limited
CAB	Construction Association of Bhutan
CBI	Central Bureau of Investigation, India
CCPC	Civil & Criminal Procedure Code of Bhutan
CDB	Construction Development Board
CoC	Code of Conduct
CoI	Conflicts of Interests
CoS	Committee of Secretaries
CPI	Corruption Perception Index
CPIB	Corrupt Practices Investigation Bureau, Singapore
CRC	Citizen Report Card
CRM	Corruption Risk Management
CRRH	Central Regional Referral Hospital, Gelephu
CSC	Community Score Card
CSO	Civil Society Organization
DA	Disproportionate Asset
DANIDA	Danish International Development Agency
DCRC	Department of Civil Registration & Census
DGM	Department of Geology & Mines
DGPC	Druk Green Power Corporation Limited
DLG	Department of Local Governance
DoI	Department of Immigration
DRC	Department of Revenue and Customs
DYT	Dzongkhag Yargay Tshogdu
ECB	Election Commission of Bhutan
FYP	Five Year Plan
G2C	Government to Citizen
GCB	Global Corruption Barometer
GCR	Global Competitiveness Report
GDP	Gross Domestic Product
GGC	Good Governance Committee
GNHC	Gross National Happiness Commission
GOI	Government of India
GPMS	Government Performance Management System
GYT	Gewog Yargye Tshogchung

ABBREVIATION

HRM & D	Human Resource Management & Development
HRO	Human Resource Officer
HSS	Higher Secondary School
IACD	International Anti-Corruption Day
ICT	Information & Communication Technology
IDT	Integrity Diagnostic Tool
IMS	Investigation Management System
INR	Indian Rupee or Currency
JNP	JigmeNamgyal Polytechnic
KPI	Key Performance Indicator
MACA	Malaysia Anti-Corruption Academy
MACC	Malaysian Anti-Corruption Commission
MoHCA	Ministry of Home and Cultural Affairs
MoU	Memorandum of Understanding
MoWHS	Ministry of Works and Human Settlement
MRRF	Monggar Regional Referral Hospital
MSS	Middle Secondary School
NACC	National Anti-Corruption Commission, Kingdom of Thailand
NACS	National Anti-Corruption Strategy Framework
NACW	National Anti-Corruption Week
NHDC	National Housing Development Corporation Limited
NIA	National Integrity Assessment
NIACS	National Integrity and Anti-Corruption Strategy
NKRA	National Key Result Area
NLCS	National Land Commission Secretariat
Nu.	Ngultrum, Bhutanese currency
OAG	Office of the Attorney General
OECD	Organization for Economic Co-operation & Development
PLaMS	Planning and Monitoring System, GNHC
PPPD	Public Procurement & Policy Division, MoF
RAA	Royal Audit Authority
RBP	Royal Bhutan Police
RCSC	Royal Civil Service Commission
RIA	Regulatory Impact Assessment
RICBL	Royal Insurance Corporation of Bhutan Limited
RIM	Royal Institute of Management
RMA	Royal Monetary Authority of Bhutan
RSTA	Road Safety & Transport Authority
SA	Social Accountability
SCM	Standard Cost Model
SDC	Swiss Agency for Development and Cooperation
SEA-PAC	South East Asia Parties Against Corruption
SKRA	Sectoral Key Result Area
TAB	Tourism Authority of Bhutan
TI	Transparency International
ToT	Training of Trainers
UNCAC	United Nations Convention Against Corruption
UNDP	United Nations Development Programme
UNODC	United Nation Office on Drugs & Crime
YMC	Youth Media Center

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Introduction

Bhutan has come a long way in her fight against corruption, from a point of shyness and denial to open public discourses and acceptance. Admittedly, the ACC has played a major role in it. It resolutely defined its path and drew its strength from the 4th Druk Gyalpo's unambiguous Royal Decree, which states, *"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 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".

The ACC's performance is vouched by an ADB publication, titled "20TH BY 2020: BHUTAN'S DRIVE FOR IMPROVED GOVERNANCE". It states, *"The vision that Bhutan has set for itself as a peaceful, prosperous, and happy country is anchored in the unique development philosophy of gross national happiness, one pillar of which—good governance—holds the key to strong public management and service delivery. International perceptions of good governance and anti-corruption, in particular, in Bhutan have consistently stayed very positive. This is largely a result of the visible and credible work of the Royal Audit Authority (RAA) and the Anti-Corruption Commission (ACC) although there are also other institutions that merit attention. The RAA and the ACC are at the forefront of the work on good governance in the country largely through the active and rigorous pursuit of their respective mandates. Organizationally they are very strong. With committed leadership at the helm and coupled with active support from the political leadership, these two agencies have contributed significantly to good governance in the country"*.

Bhutan may not have experienced rising corruption like in other young democracies. She is ranked the 30th out of 175 countries and maintained the 6th rank in the Asia Pacific region in the 2014 TI-CPI; 103rd out of 144 countries in the GCR 2014-2015; GCB 2014-2015 reports impressive improvements in various components of the Pillar of Institutions (refer Table 1.2). The ACC, Bhutan, has also become known as a model in the region for putting in place effective integrity and anti-corruption measures in the country. More importantly, fight against corruption continues to receive attention at the highest level. It is also a top priority of the Government.

Corruption is a complex phenomenon; it is not a problem but a symptom of much larger and deeper social-economical, cultural and political problems. Simplistic and one time intervention will not address it. It seeks continuous, comprehen-

sive and collective solutions. Fighting corruption is about justice, equity, security and wellbeing, the bedrock of human rights and human dignity. According to a new book by two professors from the Universities of Strathclyde and Birmingham, a total of 1.6 billion people worldwide are forced to pay bribes to gain access to everyday public services such as healthcare and education, to obtain permits, or after being stopped by police. Bhutan is fortunate that she has not yet reached this proportion of entrenched corruption.

The first ever UN's My World 2014 Survey launched on 17 July 2014, asked participants from across the globe to vote on what development goals mattered to them the most. More than 7 million people from 194 countries including Bhutan participated in the survey, overwhelming majority being young people under the age of 30 years from low to medium HDI (Human Development Index) countries. *"An honest and responsive government"* consistently ranked high in the survey results. Of 2565 Bhutanese respondents, 73 percent were between the age of 16-30 years. "Good education" was what mattered most to 82 percent of the respondents, "better health care" for 71 percent, "better job opportunities" for 68 percent and "an honest and responsive government" for 55 percent, which is also the global pattern.

The survey identified transparency and corruption as a top priority for people under the age of 34. To further explore the view of the millennials, those aged 18-34 years, on this topic a survey titled, *"The Impact of Corruption: Perspectives from Millennial Voices"*, a collaborative effort led by the World Economic Forum's Partnering Against Corruption Initiative and the UNODC with support from TI, the Accountability Lab and the International Student Festival in Trondheim (ISFiT 2015) was conducted. It suggests that the two issues regarded as most important by those millennials in the survey are (i) the impact corruption will have on growth and (ii) what other impacts it will have on the future, including voting and the public sector as a career choice. *"As the generation that would live with the consequences of today's corruption the longest, it is important that its voice is heard and its concerns acted on. It is our hope it encourages more mil-*

lennials to engage in the subject of corruption, helps them understand the scale of the problem, and encourages them to play a role in helping create an environment where it cannot flourish," says the organizers.

The key survey results were: (i) 72 percent of the respondents believe corruption is holding their country back and depriving their generation of opportunity; (ii) the judicial system and law enforcement are ranked the top two sectors of concern among the respondents – highlighting a trust deficit in governance and public institutions; (iii) corruption issue is seen as permeating throughout key societal functions from voting and police forces, to legal procedures and career growth; (iv) 49 percent of the respondents indicated they would be more likely to consider a career in public service if corruption was less widespread; and (v) 42 percent of the respondents feel they don't have much tools to fight corruption indicating a sense of lost hope.

The survey results reconfirm development priorities and the critical need for "honest and responsive government" that will put in place effective measures to minimize corruption opportunities, impose tough sanctions where necessary and ensure transparency, which are serious concerns of both the global and Bhutanese youth.

The ACC, as Bhutan's lead anti-corruption agency, spearheads the fight against corruption in the country. Now in its 10th year of operations, it remains committed to ensuring that the anti-corruption crusade of the 4th Druk Gyalpo does not become rhetorical but results in significant changes that will have a lasting impact. It is, therefore, no longer a lone effort of the ACC but part of a comprehensive strategy called NIACS 2014-2018 that seeks to promote integrity and develop a culture of absolute intolerance for corruption in all segments of the society. The strategy takes a long-term view to bring about reform and changes in order to create a lasting impact on governance, development and collective wellbeing. The implementation of the strategy has been integrated into the 11th FYP's Reporting Framework of the GNHC through NKRA's of *"Corruption Reduced"* and the Annual Performance Agreements initiated through the GPMS.

The ACC is mindful of the public expectation created after its establishment, the expectation that corruption will not be left unchecked, that moral fibre of the society will be strengthened and that democracy will not be undermined because of corruption. It has been constantly evolving to meet these challenges that are becoming increasingly complex. Over the period of nine years, modest achievements have been made together with its partners in putting in place effective checks and balances and ensuring greater public outreach. As a small country with caring and enlightened leadership, with a small bureaucracy and private sector, the ACC has always believed that Bhutan has the opportunity to be the least corrupt in the world.

The approach in the fight against corruption has been multidisciplinary within the core services of prevention, education and investigation. Till 25 March 2015, the ACC received 4050 number of complaints out of which 142 were investigated. Investigations into corrupt practices in mining, land administration, health procurement, repatriation of INR, immigration and constructions revealed not only serious weaknesses in the internal governance systems of the sectors but also of larger leadership, governance and cultural issues.

Prevention and education measures are equally critical in the fight against corruption as investigation; prevention can be more challenging than investigation. The four over-arching strategic objectives of the NIACS, namely, (i) ensure political will and promote ethical leadership and integrity; (ii) inculcate ethical behaviour through education and awareness programs; (iii) promote cooperation and partnership for a collective alliance against corruption; and (iv) strengthen systems to prevent and combat corruption guide the anti-corruption efforts. The anti-corruption efforts must be supported by strong and committed political will in terms of allocation of adequate resources, enacting anti-corruption friendly legislations to investigate corrupt acts, no political interference in its operation and government adopting a zero tolerance policy on corruption. NIACS is not only for the executive but also for the legislature, judiciary, other public entities, armed forces, monastic bodies, private sector, political parties, CSOs, media fraternity and the

citizens.

The ACC has constantly endeavored to mobilize sectors to fight corruption together through networking and partnership, in the spirit of shared responsibility. Parliament, judiciary, government agencies, constitutional bodies, CSOs, media fraternity, youth groups, educational institutions, business community and regional and international institutions are some of its important strategic partners. Education is the backbone to corruption prevention. Creating a generation that will value integrity, justice and courage is a long-term strategy but the most sustainable strategy in the fight against corruption. The seeds of integrity must be sown in the young Bhutanese as they have the potential to drive real change as today's citizens and tomorrow's leaders. The ACC also engages citizens and builds their anti-corruption consciousness in order to empower them to act against corruption. Building integrity also involves mainstreaming integrity and anti-corruption measures in the public sector, improving systems, improving public service delivery and strengthening rule of law.

The heads of the public agencies have the most important role in combating corruption in the country by ensuring efficiency, transparency and accountability in their businesses, by 'leading by example' and being a role model for their fellow employees. It is hoped that the RCSC's civil service reforms and the launch of the executive course will create a new civil service avatar characterized by deep sense of service to the nation and fellow citizens, deep empathy, deep sense of justice and the highest level of integrity and professionalism. Integrity of civil service has a great influence on the integrity of the private sector, among others.

The Annual Report 2014 is the ACC's 8th report to the Parliament and the 3rd to the 2nd Parliament. This is in accordance with section 169 (1) of the ACAB 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, the Prime Minister and Parliament.*"

The report covers the period from April 2014 to

March 2015. It has 7 sections, excluding introduction and conclusion. This is the last report of the incumbent Commission to the Parliament and therefore, it entails a comprehensive stocktaking of its performance since its inception in 2006 till the reporting period. As such, the report format is also slightly different from the past reports for ease of consolidating information and reference, thereof. It also includes important milestones of the ACC from 2006 to March 2015, its first letter submitted to the then Prime Minister and the secretaries that set the anti-corruption roadmap and letter to the Speaker regarding ACC's independence as annexures. Further, although the information is not included as part of the report, a detailed log-sheet of all cases investigated and closed from 2006 to 2014 has been prepared and will be made available to the parliamentary committees and to the public.

Section 1: Taking Stock: The ACC's Performance at a Glance: Highlights the ACC's general performance in terms of Bhutan's ranking in the international survey reports such as TI CPI and GCR 2014-2015, achievements under the 11th FYP, mid-term review of the annual work plan, assessment of 2014 direction setting, audit observations, integrity diagnosis and implementation status of the parliamentary resolutions. For the first time, its asset declaration compliance and gift disclosure, which are important accountability measures, have been included in the report.

Section 2: At the Core: People, Culture & Institution: To be an incorruptible, credible, effective and a trustworthy institution has always been an important priority of the ACC and should continue to be so. The section presents the organizational structure, policy and procedures, systems, efforts made in embedding integrity and enhancing motivation through organizational health checkups, instruments such as the ethical code of conduct and awards, human resource management and development and development partners' goodwill and generous support and infrastructure facilities including the evaluation of ACC's performance by an external team using TI's ACA assessment tool.

Section 3: Independence of Anti-Corruption Commission: The Final Cue: Its independence has been an issue that the ACC has pursued relentlessly because it is imperative in combating corruption and for it to be protected from any influence. The importance of independence and how the National Assembly's decision not requiring the resignation of the Commissioners of constitutional offices would undermine it are again stressed. It also covers the Constitution Drafting Committee Chairperson's explanation of Article 27, Section I of the Constitution. The need for ultimate resolution instead of seeking temporary solutions and drumming irrelevant arguments is emphasized.

Section 4: Preventing Corruption: Fighting Corruption Collectively at the Systems Level: Presents systemic weaknesses as revealed by NIAs and international reports. Covers ACC's multi-pronged approaches to prevent corruption within the spirit of collaboration and partnership such as public education and advocacy, systems' review, integration of integrity promotion and anti-corruption strategies in the internal governance system of agencies, building domestic and international coalition, promoting citizens' and youth engagement, research, etc. These are presented under the four strategic objectives of NIACS. The important need for institutions such as the legislature, judiciary and the cabinet to institutionalize integrity promotion and anti-corruption measures in their internal governance system is also highlighted.

Section 5: Breaking Mental Barrier in Public Procurement Management to Secure "Value for (Public) Money": Procurement accounts for about 15 to 30 percent of a country's GDP, it is highly prone to corruption and fraud and the general practice in public procurement is not healthy. Therefore, it is discussed under a separate section to create greater insight into public procurement management and for the Government to make effective interventions. Processes in procurement such as bench marking, due diligence and transparency in seeking value for money are discussed. To highlight public procurement in practice, the case study of mis-procurement in Government-ORIO funded road network project is presented.

Section 6: Combating Corruption: Takes stock of all the complaints received and cases investigated by the ACC from 2006 to 2015. It includes desk reviews and information verification of the back-log of complaints pertaining to Land, Procurement and Human Resource sectors. Analysis of complaints and cases and highlights of two cases, namely land and import of EVs are also covered.

Section 7: Challenges of Fighting Corruption: Consolidates the challenges, submitted in the past reports, faced by the ACC in preventing and combating corruption in the country. It highlights the general lack of sense of shared responsibility, entrenched culture of impunity and misplaced “compassion” despite the Government’s intolerant anti-corruption policy and the deep concerns of Their Majesties the Kings that is exacerbated by weak accountability, social and political nexus that instills fear, weak oversight and general lack of coordination among regulatory agencies, among others.

Conclusion: Highlights the important achievements of the ACC and its partners over the period of nine years, its shortfalls, important need to recognize pervasive public perceptions of the behaviour of politicians, political parties and public servants and public service culture, among others and the way forward for effectively preventing and combating corruption in the country. Further, issues such as the dynamics between politics and private sector and tax evasion that have not been elaborated in the report have been briefly touched upon. Another issue, which has neither been discussed in the past reports nor in this report is the need to build regional anti-corruption coalition as in the other regions has been highlighted.

His Majesty’s deep concern for the country is invoked by His numerous statements on corruption as elicited by this, *“The highest probable risk to development that I foresee is corruption. Our national development efforts will be hindered by unchecked corruption. Corruption is unambiguous- there is no great or small corruption. And no one can be above the law. But there is an even greater threat- ignoring corruption. The rise in corruption in Bhutan is a challenge we face. How big the challenge is will depend on how soon and*

how strongly we decide to oppose it. There is no room for corruption - it is as simple as that, not now and not in the future”.

Corruption is indeed a serious risk for Bhutan and opportunities for corruption is plenty in an environment of weak enforcement culture, entrenched culture of impunity and misplaced “compassion”, weak oversight and poor accountability, among others. Hence, there is a great motivation for an individual to be corrupt because s/he and her/his family can lead a comfortable lifestyle as risks of being caught is low and even if caught at all it does not appear to be costly to her/him and the family.

Driven by His Majesty’s deep concerns and its own determination to fulfill the tall mandate, the ACC has always been critical to the discomfort of many and at the risk of being perceived to be exaggerating. The report, as in the past, is candid, critical and evidence based. While many good things are happening in the country, the ACC believes in highlighting the reality and the challenges because those good things will always be covered in other Government reports. In fighting corruption, there is no room for adulation, rationalization, “compassion”, hesitation, fear and despair. Corruption has to be fought with skillful means and wisdom, fearlessly without prejudice, without undermining justice and constitutional rights of individuals, with a sense of urgency, tenacity of purpose and has to be result-driven. It is also important to recognize that corruption in the ultimate analysis is about people, who design, manage and flout the systems.

Leaders and the Government of the day have to set the tone and lead the way!

Section 1

TAKING STOCK: THE ACC'S PERFORMANCE AT A GLANCE

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Section 1

TAKING STOCK: THE ACC'S PERFORMANCE AT A GLANCE

“Who watches the watchdog? Who guards the guard? Who checks the ACC?” These are frequently asked questions and are critical questions, which the ACC boldly encourages everyone to pose anytime and anywhere. These questions have to be and must be asked without fear of reprisals because of the mere fact that the ACC bears the important mandate to promote a culture of integrity within the governance system and the society at large and is vested with powers to fulfill this mandate responsibly. And the ACC has to answer them. Therefore, it is imperative and incumbent upon every member in the ACC to ensure that s/he has the moral authority to not only talk about integrity and but also promote it. The ACC must practice and must be seen to practice what it preaches to the others. It must be the first to implement and institutionalize all anti-corruption and integrity promotion tools and strategies in-house to build itself into an incorruptible, strong, trustworthy, credible and an effective institution. Internal and external performance evaluation and accountability systems must be rigorous and robust. It has to be subjected to public scrutiny for its advancement. The annual report to the Parliament is an instrument of performance evaluation and fixing accountability.

As in the past reports, the ACC's performance for the reporting year is based on, among others, its mid-term review of the annual work plan July 2014 to June 2015, assessment of 2014 direction setting, audit observations, integrity diagnosis and implementation status of the parliamentary resolutions. Performance has been also assessed based on the international survey reports, namely TI CPI, Worldwide Governance Indicators 1996 – 2013 and GCR 2014 - 2015. Asset declaration compliance and gift disclosure, which are important accountability measures, have been included for the first time.

This section provides a bird's eye view of the ACC's performance, giving a sense of its busi-

ness at a glance. There tends to be duplication in the reporting with activities featuring repeatedly under separate headings. It will be consolidated in the future reports.

The International Perspective

TI CPI Ranking

The TI CPI 2014, released on 3 December 2014, ranked Bhutan as the 30th least corrupt country with a score of 65, one rank higher than TI CPI 2013 with two points higher in its score, the best till date. Since Bhutan's inclusion in the TI CPI ranking in 2006, its score has improved over the years. Comparing with global and the Asia Pacific region's average score of 43, Bhutan's score of 65 is significantly higher, demonstrating comparatively better control of corruption in the country. This makes Bhutan a country where control of corruption has seen a high rate of improvement over the last nine years. In terms of ranking, Bhutan has moved up from the 49th position in 2009 to the 30th in 2014, placing her above countries like Botswana, Cyprus and Portugal and below Saint Vincent and the Grenadines, Qatar and France. Most of the countries ranked above Bhutan are developed countries. Hence, improvement in ranking by Bhutan in future is going to be tough as it has to compete with countries with robust anti-corruption systems and infrastructures and strong accountability culture; it, however, is not impossible.

The TI-CPI 2014 ranked 175 countries/territories as compared to 177 in 2013. It ranked Denmark in the 1st position with a score of 92 and New Zealand in the 2nd position with a score of 91. Finland maintained its 3rd position scoring 89 followed by Sweden in the 4th position with a score of 87. The three lowest ranked countries were Sudan with a score of 12, North Korea and Somalia each scoring 8.

In the Asia-Pacific region, Bhutan has maintained its 6th position since 2012. The region has developed economies that are in top ten in combating corruption like, New Zealand, Singapore, Australia, Japan and Hong Kong.

According to TI, “Poorly equipped schools, counterfeit medicine and elections decided by money are just some of the consequences of public sector

corruption. Bribes and backroom deals don’t just steal resources from the most vulnerable – they undermine justice and economic development, and destroy public trust in government and leaders”. According to TI’s press release, “countries’ scores can be helped by open government. Open government through transparency measures, free media for check and balance and public engagement for accountability will be key to Bhutan’s

Figure 1.1 : Bhutan’s TI CPI scores from 2006 to 2014

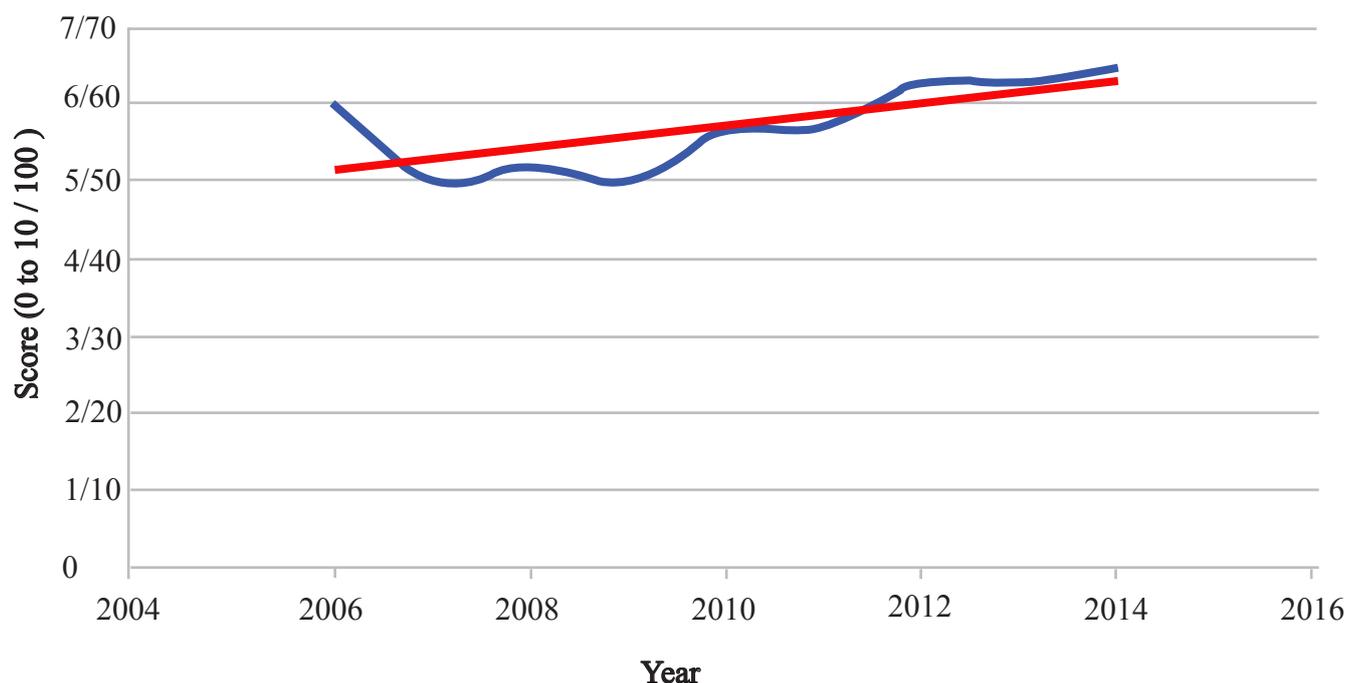


Table 1.1 : TI CPI ranking and scores for Bhutan from 2006 to 2014

Year	Gobal 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
			score (0 - 100)			
2012	33	176	63	6	3	57-69
2013	31	177	63	6	4	59 – 67
2014	30	175	65	6	4	62 - 68

continued advancement in future. More than two-thirds of 175 countries/territories scored below 50 out of 100. Refer Figure 1.1 and Table 1.1 for Bhutan's trend in scores and ranks.

The TI changed its CPI compilation methodology in 2012. The new method uses the most recent one year's data, making comparisons of scores possible from 2012 onwards. A scale of 0 (perceived to be highly corrupt) to 100 (perceived to be very clean) is used for scoring countries.

The TI normally uses data from a variety of independent and reputable institutions to determine the score and position of a country. For Bhutan, TI has used four sources, namely, Bertelsmann Foundation's Sustainable Governance Indicators, World Bank's Country Performance and Institutional Assessment, World Economic Forum's Executive Opinion Survey and Global Insight's Country Risk Ratings. In addition, it also uses business people opinion surveys and assessment (scores) provided by country experts or analysts. The data from these different sources are processed using statistical tools and transformations to arrive at the score and rank.

Bhutan's Journey in TI CPI

Bhutan made its debut in the TI CPI ranking in 2006 with a respectable rank of 32nd out of 163 countries and territories and a score of 6 on a scale of 0-10. This debut coincided with the establishment of the ACC by Royal Decree on 31 December 2005. In 2007, the ranking slipped down to the 46th country out of 180 with a score of 5. While the ranking moved to the 45th in 2008, it further fell by four places to the 49th in 2009. During those three years, the score remained precariously at 5. Bhutan's CPI was at its nadir in 2009. Anti-corruption experts say that if a country's score fell below 5, it is very difficult to recover as the fight against corruption becomes ineffective. The rationale may be that corruption has become systemic in nature and rampant in its spread that an anti-corruption agency's efforts bring no improvement.

The first trend of improvement was seen in 2010 when the ranking improved by thirteen levels, placing Bhutan in the 36th position out of 178.

Its score also climbed to 5.7, moving up from the danger mark of 5. In 2011, though ranking slipped by two places to 38th position out of 183, the score remained the same. Bhutan's CPI ranking saw yet another significant improvement in 2012, moving up by 5 places to the 33rd position with a score of 6.3, crossing the 2006 score for the first time. In 2013, a steady improvement in ranking placed Bhutan in the 31st position out of 177 with the score remaining same. Bhutan moved up by one place in 2014 and attained the 30th position out of 175 with the best score of 6.5. The rate of improvement in the last few years has been small because it is a challenge to compete with developed countries with robust anti-corruption systems and infrastructures.

Bhutan's trajectory in the TI CPI has to be understood in its right perspective. When she first appeared in the TI ranking in 2006, there was not much information on corruption in the public domain. Right after its establishment, the ACC educated the citizens on the risks and costs of corruption and investigated cases of corruption, which featured in the public domain. Public gained confidence and started reporting corruption to the ACC. Bhutan embraced democracy in 2008, bringing in greater transparency in the governance system. Media houses reported on stories of corruption. With more information on corruption in the public domain, access to information improved both in quantity and quality. Hence, improved data through enhanced access to information could be the reason for the slump in Bhutan's CPI ranking from 2006 till 2009. Such a trend is considered to be quite normal in the initial years for countries that debut in TI CPI ranking.

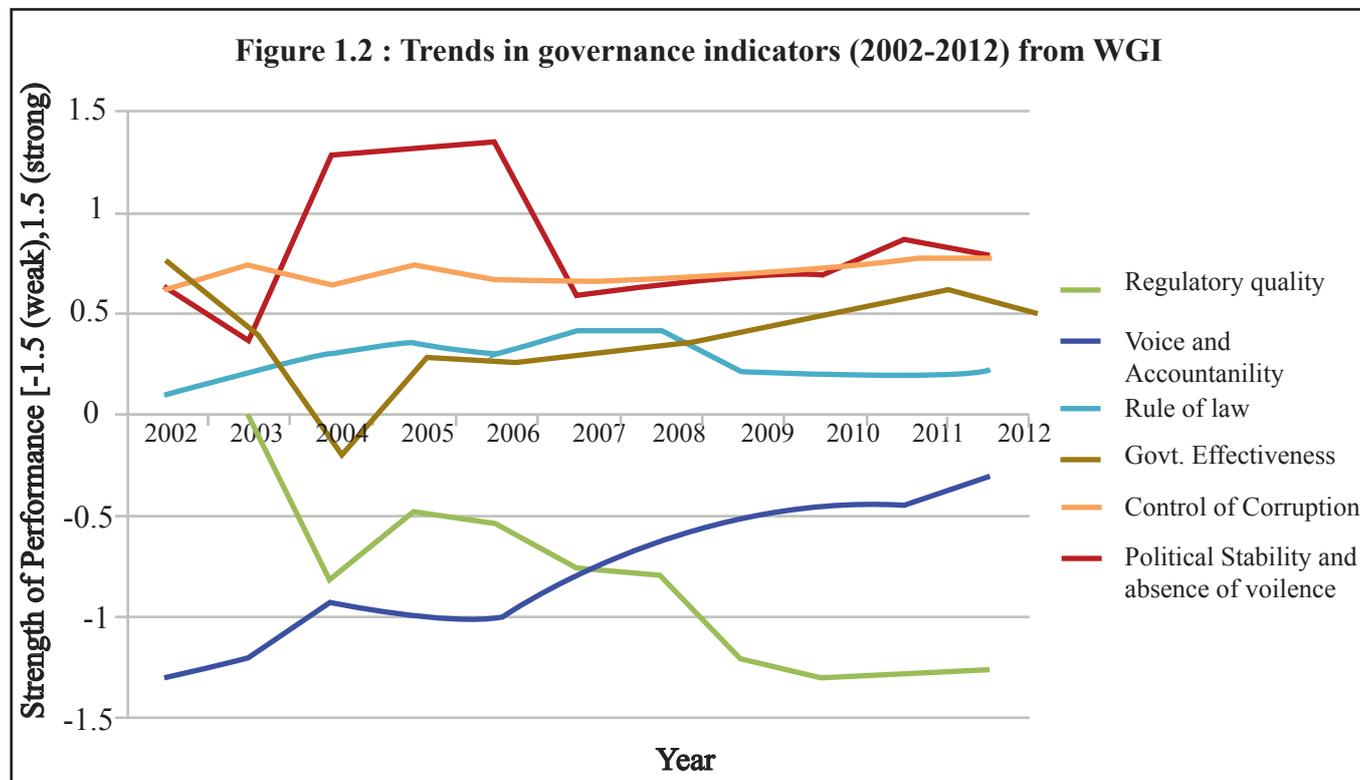
Corroborating Trends

Trends in Governance Indicators (2002-2012),
Worldwide Governance Indicators (WGI)
(1996 – 2013)

The TI CPI ranking could be taken as a proxy indicator for control of corruption rather than as an absolute one. This proxy indicator gains more credibility with corroborating trends from

other sources. One such corroborating indicator is provided by Trends in Governance Indicators (2002-2012) for Bhutan from the WGI (refer Figure 1.2). In this trend, “control of corruption” has been making a steady progress over the years, supporting the trends indicated by TI CPI

A definite trend of advancement in Bhutan’s TI CPI ranking places her among the nations with good track records in fighting corruption. Less than one-third of countries score above 50 and Bhutan’s score of 65 place her well above many countries and territories. Such achievement could



ranking. “Voice and accountability”, which is an important component in fighting corruption, has been growing from strength to strength according to WGI data. However, other governance indicators like, “regulatory quality”, “rule of law”, and “government effectiveness” and “political stability and absence of violence” are not encouraging. These governance indicators are seen to be in deteriorating trends, eliciting weakness in proactive and coordinated systemic approach and a strong resolve to fight corruption.

Another trend of encouragement is shown by the NIA findings. The ACC has been conducting NIA surveys every three years with support from the NSB, which started in 2009. The national integrity score was 7.44 in 2009 on a scale of 0 to 10; it increased to 8.37 in 2012, corroborating the trends shown by TI CPI ranking. However, the inherent limitations of the findings have to be understood.

be attributed to the relentless drive against corruption spear-headed by the ACC with blessings from the Kings, the citizenry and to some extent, the role played by the media, including social media. Corruption cannot be tackled by a single agency and effective partnership programs across public and private agencies have to be strengthened.

Bhutan targets to attain the 20th rank by 2018, the end of 11th FYP.

Global Competitiveness Report 2014 - 2015

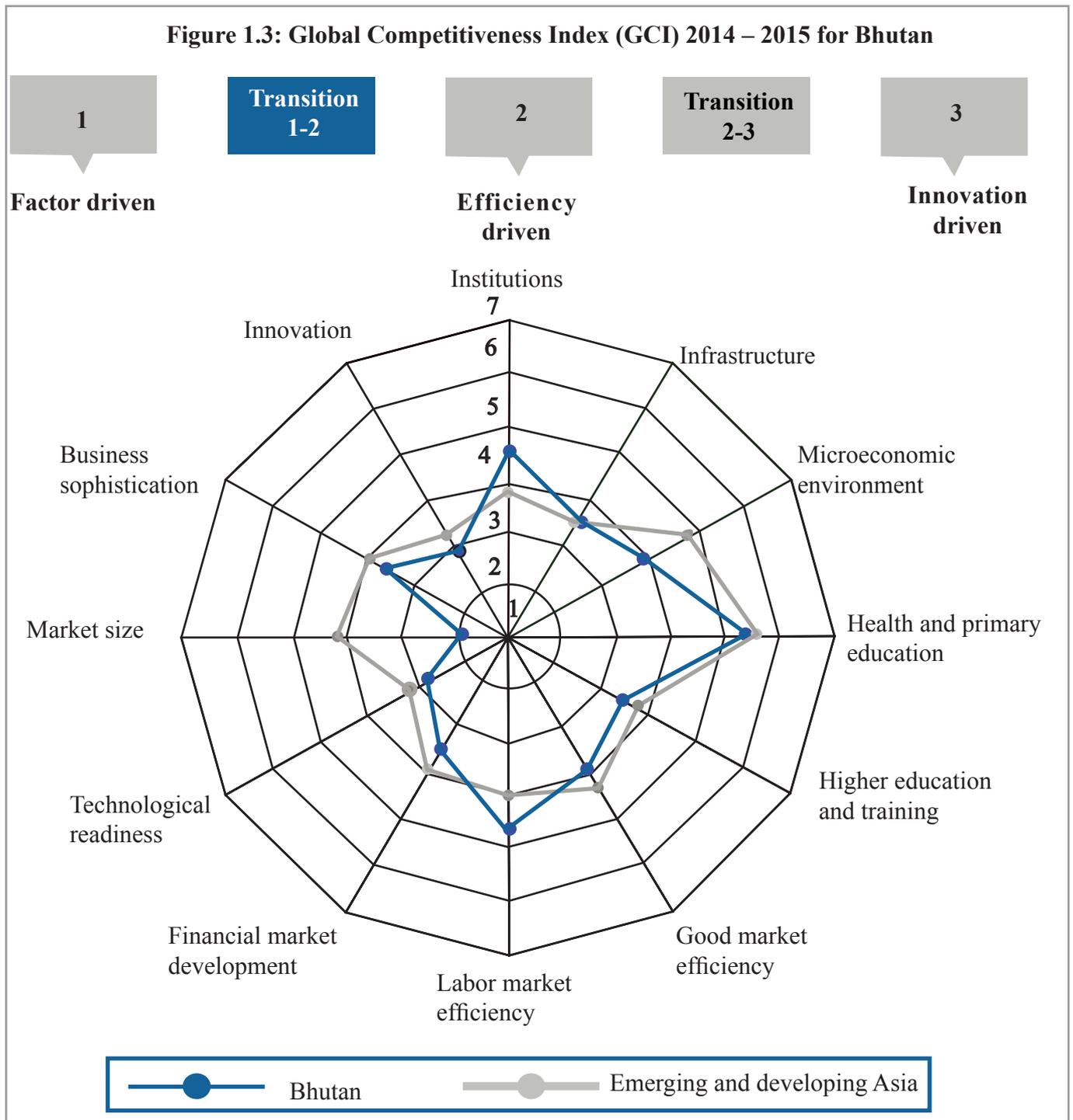
The GCR featured Bhutan for the first time in its 2013-14 report and was included in the ACC’s last report. Bhutan which ranked 109th with a score of 3.73 out of 148 economies gained six places, ranking it 103 among 144 economies with a score of 3.80, a marginal increase, in the GCR 2014-2015. The score is on a scale of 1 to 7, where 1 means extremely weak and 7 is extremely strong.

The GCR states that it assesses the competitiveness landscape of economies, providing insight into the drivers of their productivity and prosperity. It claims to be the most comprehensive assessment of national competitiveness worldwide, providing a platform for dialogue between government, business and civil society about the actions required to improve economic prosperity. Competitiveness is defined as the set of institutions, policies and factors that determine the level of productivity of a country. The GCR is published by the World Economic Forum in Geneva, Switzerland, with its partner institutes. The report

records Druk Holding and Investments (DHI) and BCCI are its partner institutes in Bhutan.

Figure 1.3 shows the Global Competitiveness Index (GCI) 2014-2015 for Bhutan based on twelve pillars. Stages of development are determined by level of GDP per capita at market exchange rates. A second criterion is used to adjust for countries that, based on income, would have moved beyond stage one, but where prosperity is based on the extraction of resources. In line with well-known economic theory of stages of development, the GCI assumes that, in the first stage, the economy

Figure 1.3: Global Competitiveness Index (GCI) 2014 – 2015 for Bhutan



is factor-driven and countries compete based on their factor endowments—primarily unskilled labor and natural resources. Companies compete on the basis of price and sell basic products or commodities, with their low productivity reflected in low wages.

Bhutan falls in the ‘transition 1–2’ stage of development (between Stage 1 and Stage 2). In comparison to other emerging and developing Asian countries, Bhutan is better in ‘Institutions and labor market efficiency’ factors of competitiveness. It means Bhutan’s legal and administrative framework within which individuals, firms,

Table 1.2 : Bhutan’s score and ranking against disaggregated components of “Institutions”

1st Pillar: Institutions, Factors related to corruption	2014 - 2015		2013 - 2014	
	Rank /144	Score	Rank /148	Score
Ethics and corruption, 1-7 (best)				
Diversion of public funds	29	4.6	81	3.1
Public trust in politicians	24	4.1	61	3.1
Irregular payments and bribes	39	4.8	124	2.9
Irregular payments in exports and imports	46	4.4	-	-
Irregular payments and bribes: Public utilities	41	5.4	-	-
Irregular payments and bribes: Annual tax payments	51	4.8	-	-
Irregular payments and bribes: Awarding of public contracts and licenses	33	4.4	-	-
Irregular payments and bribes: Obtaining favorable judicial decisions	31	4.9	-	-
Undue influence, 1-7 (best)				
Judicial independence	38	4.5	115	2.8
Favoritism in decisions of government officials	37	3.7	70	3.1
Government efficiency, 1-7 (best)				
Wastefulness of government spending	15	4.5	73	3.2
Burden of government regulation	47	3.7	70	3.5
Efficiency of legal framework in settling disputes	44	4.1	83	3.5
Efficiency of legal framework in challenging regulations	87	3.2	72	3.5
Transparency of government policy making	76	3.9	119	3.6
Corporate Ethics				
Ethical behavior of firms	38	4.5	80	3.8
Accountability				
Strength of auditing and reporting standards	69	4.7	116	3.9
Efficacy of corporate boards	51	4.8	73	4.5
Protection of minority shareholders’ interests	66	4.2	86	3.9
Strength of investor protection, 0–10 (best)	117	3.7	69	5.3

and government interact to generate wealth are comparatively sound and fair (see details in GCR 2014-2015).

Of specific relevance to the annual report is Table 1.2, which illustrates Bhutan's scores and the corresponding rankings of the disaggregated components of the 1st Pillar that is "Institutions" that are related to corruption. In comparison to GCR 2013-2014, there is a conspicuous increase in all the scores and the corresponding rankings except for "Efficiency of legal framework in challenging regulations" which dropped from 3.5 (87 rank) to 3.1 (72) and "Strength of investor protection" which sharply dropped from 5.3 (69) to 3.7 (117). Overall, corruption control in Bhutan is better than most countries considering its scores (mostly above average) and rankings (between 24 to 87, except for one) of the factors related to corruption. The GCR 2014-2015 includes new elements such as "Irregular payments in exports and imports" and "Irregular payments and bribes in tax and utilities".

Drawing a comparison between the above results and that of the World Bank's "Ease of Doing Business" may also be useful in determining interventions.

The GCR 2014-2015 highlights that in most emerging Asian economies, common challenges include reducing red tape and pervasive and deep-rooted corruption, among others. However, for Bhutan only 4 percent of the respondents consider corruption as a challenge. Access to financing (21.2% of the respondents), foreign currency regulations (12.4%), restrictive labor regulations (10.0%), inadequate supply of infrastructure (9.4), inefficient government bureaucracy (7.5), poor work ethic in national labor force (7.2) and policy instability (6.8) have been identified as the bigger challenges.

The respondents are said to be heads of companies. Details of surveys have not been studied; from a very preliminary review, there may be inherent limitations in coverage, geographically and otherwise.

Eleventh FYP, 2013-2018

In alignment with the 11th FYP's overall objective of "Self Reliance and Inclusive Green Socio Economic Development" and its vision and mission to work towards a corruption free society by leading by example, achieving excellence in partnerships and mainstreaming anti-corruption strategies in public and private agencies, the ACC's 11th FYP has five main outputs. They are, namely, to: (i) build ACC as an effective and a credible institution in fostering zero tolerance for corruption in Bhutan, (ii) create an informed citizenry to enlist their support to create a social fence against corruption, (iii) mainstream anti-corruption measures in public and private institutions, (iv) deter acts of corruption through investigations without fear or favor and (v) contribute to building an honest and ethical society.

This is the second year of the plan implementation. As of December 2014, the aggregate achievement of its overall goals is 45 percent. The status of some targets are: (i) 49 percent are known complaints (18 percent alone are walk-in complaints), which far surpasses the target of 25 percent; (ii) prosecution and conviction rates reduced to 92 percent as against 95 percent in 10th FYP; (iii) national integrity score of 8.37 exceeds the target of 8; (iv) general advocacy in 205 gewogs completed and sensitization/training in social accountability measures in seventy four gewogs have been completed against the target of general advocacy in 205 gewogs; (v) on the legal framework, ACAB 2011 and AD Rules 2012 are being enforced fully; enforcement of Debarment Rule 2013 is taking time because the Debarment Committee is not fully functional (details under Section 4: strengthening legislative framework); Gift Rules 2013 will soon be published; a guideline on investigation and prosecution of private sector corruption is in place; (vi) technical support service unit has been established; (vii) Bhutan attained 30th position in 2014 TI CPI ranking after the lowest position of 49th in 2009, gaining nineteen ranks; continuous effort is being made to achieve the target of 20th position by 2018; (viii) 25 cases have been investigated against the target of 30 cases annually (150 during the FYP); and (ix) target of 60 days to complete a regular

investigation has not been achieved in all cases because of sheer scope, among other factors; target has to be reassessed for it to be realistic, especially with increasingly complex cases.

Mid-term Review of Annual Work Plan, July 2014-June 2015

The mid-term review of the annual work plan July 2014-June 2015 conducted in December 2014, reported a modest achievement of around 78 percent of the planned targets with an expenditure of 88 percent of the total funds released and about 38 percent of the total budget for the financial year. The project implementation began only from November 2014.

The corporate services (planning, human resource management & development, administration and finance) have achieved 80 percent of the planned activities, specifically with the implementation of NIACS 2014-2018 in thirty four agencies, social accountability programs (joint effort), rigorous capacity development and partnership programs. The staff strength has increased to 78 from 72 last year. Commemoration of IACD and NACW 2014 with active involvement of partners like YMC, DLG, RIM and youth reinforced the ACC's endeavor in building an awakened citizenry that denounces corruption. Drafting of HR development and management policy and production of the ACC's corporate film have again been delayed.

In the legal services, about 40 percent of the planned activities have been completed. The UNCAC ratification is underway and the remaining activities like supporting Debarment Committee in drafting sentencing guideline and dissemination on gift rules have not been implemented.

Complaints management and follow-up services have been routine in nature, with the flow of complaints and content remaining generally similar. Producing quarterly reports, strengthening database and establishing an effective documentation system are some of the initiatives. The IMS has still not been fully operationalized despite setting it as a priority in the last reviews. This is expected to be addressed with support from the MACC.

The HRM&D and Procurement & Construction Sectors under Department A have achieved 50 percent of their planned targets. A conscious effort has been made to implement investigative and preventive services as targeted in the plan. The review, however, noted that the sectors have been preoccupied with investigation thus taking precedence over the other two services. Nevertheless, all the sectors' personnel were fully mobilized for the nationwide prevention and education programs last year.

The Land & Natural Resources and Finance & Business Sectors under Department B have achieved 30 percent of the planned target. Department B was also preoccupied with investigation.

The remaining 22 percent of the overall planned activities will be implemented by the end of the financial year, June 2015.

Assessment of 2014 Direction

At the end of each year, the ACC as a collective body reflects on the achievements made during the year and sets direction for the subsequent year based on the progress and lessons learnt from the past. The annual work plan for July 2014-June 2015 was prepared keeping in view the priorities for 2014 and the 11th FYP. The Direction for 2014 was focused on:

Collaboration and coordination which included signing of MoU with RAA, RCSC, DCRC, DoI, MoHCA, RMA, NLCS, Telcos, DRC, RIM, RBP and financial institutions: MoU with RMA, NLCS and RIM have been signed. To ensure effective implementation of programs such as the e-learning program for the parliamentarians, justices/judges and social accountability initiatives and anti-corruption advocacy and research, separate MoUs have been signed between the Judiciary, National Assembly and National Council Secretariats, RIM and the ACC, the ACC, DLG and RIM and ACC and BTI, respectively. In order to streamline investigation and prosecution of private sector corruption, another MoU was signed recently between the ACC, OAG and RBP; it also includes bilateral collaboration between the

ACC and RBP (no separate MoU will be signed). MoUs to be signed with DCRC, DoI, DRC and the financial institutions have been drafted; it may be pursued in future. MoU with RAA will be signed in April 2015 and with the RCSC most probably before June 2015.

Strengthening networks with regional and international agencies such as CBI India, MACA and BIG, Switzerland for enhancing capacity building through tailor made courses: Engagement with MACA, MACC (conducted 2 in-country trainings for HROs of public and private sectors) and BIG (conducted 3 in-country trainings) has been active and productive over the years. The ACC invited delegation from Performance Management and Delivery Unit (PEMANDU) of Malaysia's Government Transformation Initiative for facilitating the NIACS review. On March 11, 2015, MoU was signed with MACC; engagement in at least five areas has been identified. CBI also has generously supported the ACC in its capacity development efforts; efforts will be made in consolidating the collaboration.

Institutional Development through HRD in terms of developing policies, competency framework, recruitment, training, developing ICT policy, enhancing internal communications, strengthening administration and finance division and establishment of exhibition hall: A total of 45 trainings in various areas have been conducted for the staff; internal communications have been enhanced through town hall (three town hall meetings conducted during 2014) and weekly work plan meetings and communications through groove and webmail. Developed Administration and Finance Service Standards and disseminated. The mid-term review of annual work plan revealed a modest achievement in the HRM&D. Exhibition hall could not be established because of lack of creative ideas.

Develop action plan to build capacity of CSOs and other relevant stakeholders on Social Accountability (SAc) tools by August 2014, e-learning on ethics and integrity for justices/judges and parliamentarians by June 2014 and awareness and implementation of NIACS 2014-2018 to be pursued vigorously: With the introduction of four SA tools namely CSC, CRC, budget analysis and

SA, a comprehensive action plan has been developed jointly by the ACC, RIM and DLG. Since local governance is DLG's jurisdiction and has a larger outreach to the grass roots, it has agreed to take the lead role in rolling out the SA tools, in close collaboration with the ACC. E-learning course on ethics and integrity for the parliamentarians and justices/judges was launched in June 2014. Sessions on NIACS implementation were conducted in thirty four agencies, namely ten ministries, twenty dzongkhags and four thromdes (municipalities); also sensitized BDBL, Mangdechhu, Dagachhu and Punatshangchhu Hydro Power Corporation/Authority and Bhutan Taekwondo Federation on NIACS during the interactive sessions.

Strengthen investigation services through full implementation of IMS, finalizing operational manuals, developing a guideline on prosecution by the ACC, initiate a process for establishment of professional documentation services, developing protocol for the use of investigation support facilities and enforce Debarment Rules 2013: Operational manuals along with forms have been finalized, Complaint Management Protocol developed and separate technical support services established. Guideline on prosecution by the ACC has been drafted but yet to be finalized. Status on the enforcement of Debarment Rules 2013 and full operationalization of IMS are as reported under the 11th FYP review of this section.

Direction Setting for 2015

The ACC collectively set the direction for 2015 based on the review of Institutional Development Plan 2011-2020, 11th FYP 2013-2018, SDC Project 2013-2016, Change Management Plan 2013-2014, Annual Work Plan 2013-2014 and priorities for 2014 within the SKRA and KPIs set for the institution's 11th FYP.

Detailed action plan has been framed broadly focusing on five areas, namely, (i) Institution Development, (ii) Prevention and Public Education, (iii) HRM&D, (iv) Investigation and (v) Administrative Services. Departmental and sectoral annual work plans for 2015-2016 have been drawn accordingly.

The focus areas for 2015 are:

Strengthening Institutional Development: Relook at the organizational structure and independence of the ACC, dialogue with RCSC on HR autonomy and enforcement of actions and conduct ACA strengthening initiative organized by TI.

Prevention and Public Education Services: ToT for the ACC officials to build in-house capacity on the tools; conduct CRM in five dzongkhags namely Haa, Samtse, Gasa, Punakha, Sarpang and Phuntsholing Thromde; Basic Investigation Training for dzongkhag officials as requested by the dzongdags during their annual conference, 2014; develop manual on SA tools and roll it out to 48 gewogs; design the long pending corporate film; initiate Integrity Scan in the Judiciary; develop research paper on corruption in Land & Natural Resource, Human Resource, Procurement and Construction, Mining and Election; initiate Bhutan Private Sector Integrity Program; and compact signing with integrity champions in vulnerable agencies like OAG, DoI and PPPD, Ministry of Finance.

Human Resource Services: Develop HR Master Plan and a manual that includes competency framework, best recruitment strategy, performance management system, motivational models and succession plan (has been long pending); advertize vigorously for appointments at senior levels; and conduct the third round of specialized training on Financial Investigation & Asset Recovery (done in February 2015).

Investigation Services: Operationalize IMS in line with Complaint Management Policies and Procedures Guideline; complaints analysis and conduct training in investigative reporting and grant award for investigative journalism in collaboration with Journalist Association of Bhutan and Bhutan Media Foundation.

Administrative Services: Develop policies on social media, ICT and internal communications; develop strategy on team building program including health regime; and establish de-stressing facility.

Auditing of the ACC

In accordance with the provisions of the Audit Act of Bhutan, 2006 and as requested by the ACC, the RAA audited the accounts and operations of three projects and Government LC: (i) ‘Ethics and Integrity Management in Civil Service’ project funded by DANIDA for the entire project period, from 1 July 2011 to 31 August 2014, (ii) ‘Strengthening of office of Anti-Corruption Commission’ project funded by GOI also for the entire project period, from 1 July 2008 to 30 June 2013, (iii) ‘Support to Anti-Corruption Commission’ project funded by SDC from 1 March 2007 till 31 December 2013 and (iv) Government LC account from 1 January 2006 till 30 June 2013.

The RAA reports AIN: 12415, 12155, 12156 and 12223 generally stated that the financial statements presented fairly in all material respects the financial operations of the projects and the ACC in accordance with the Financial Rules and Regulations, 2001.

The ACC receiving a clean chit from the RAA for three consecutive years, demonstrates not only the financial propriety of the institution but also judicious (a simple e.g. is pooling employees’ private vehicles to reduce cost of mileage claims; over 9 percent of the annual budget is for in-country travel) and transparent management of resources, guided by value for money, discipline, due diligence (a simple e.g. is again verifying mileage claims; in a recent training organized by the ACC, 14 percent of the participants made false mileage claims using forged documents) and austerity measures. The ACC will continue to exercise due diligence and discipline and commit to “Zero audit observation”.

The last auditing of the institution covering the period of the incumbent Commission will be conducted in July 2015.

Gift Disclosure

The ACC staff have received gifts largely from visitors, counterpart institutions, corporate entities (Bhutan), 90 percent of which are institution-

al mementos such as plaque, pin, mug, pen, bag, shirt, diary, calendar, visitor card holder, external drive, etc., and books. These gifts have been registered in the Gift Register maintained by the Gift Disclosure Administrator since 2007. Gifts are kept in the individual recipient’s office or library or in the conference hall. Gifts in the form of food items are shared among the staff. The Administrator has registered 279 gift items till date.

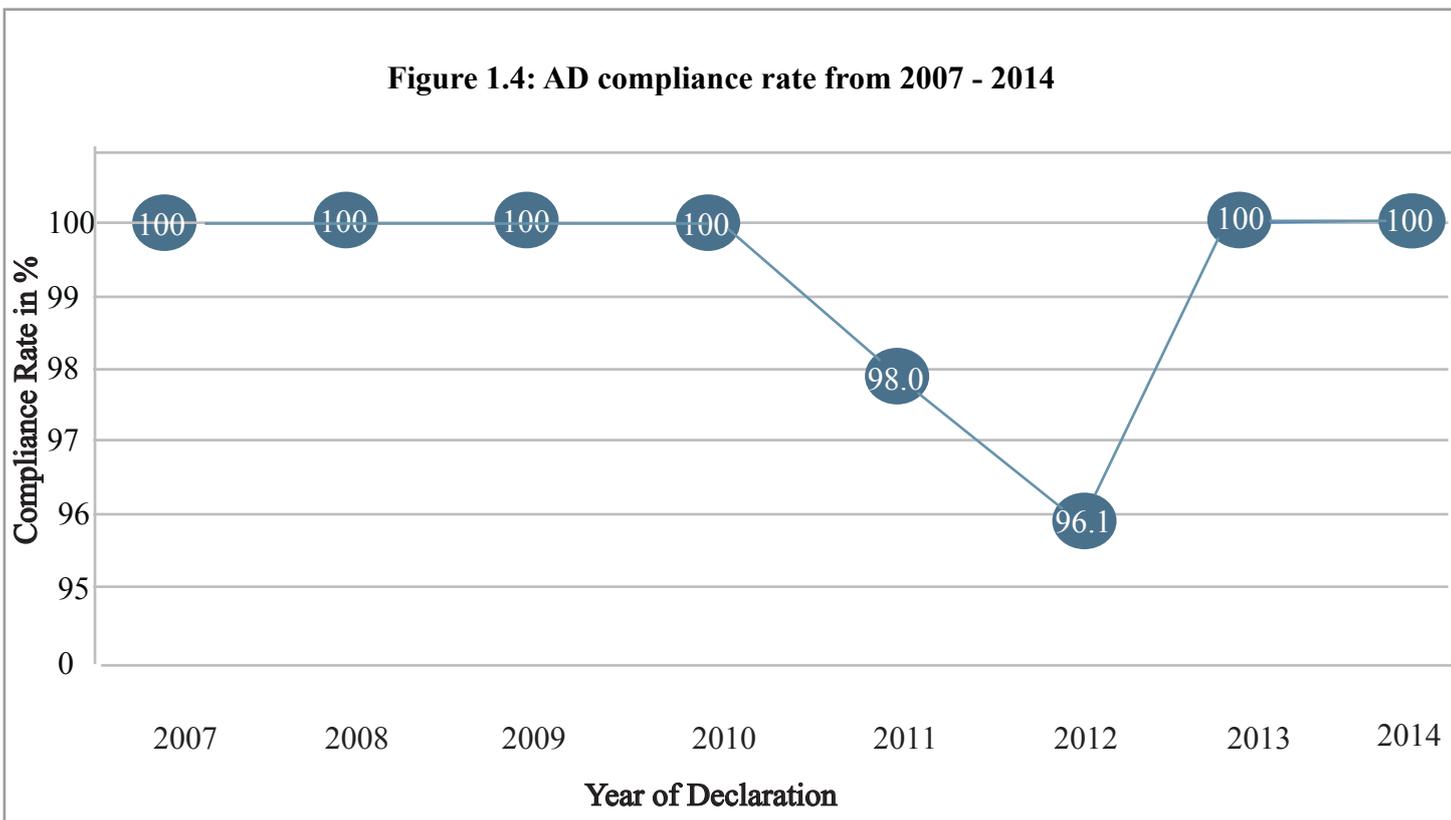
Two instances of potential/perceived conflict situations, prohibited source giving gifts to ACC staff, have been reported to the Commission. Gift items were returned and a higher value of the item (food) was paid to the giver, who was also served a letter of caution.

Gift administration has to be improved and its

Rules 2008, ACC’s AD compliance has been 100 percent (declaring within the deadline of March end) except in 2011, 2012 and 2013. In 2011, one person did not declare as he was suspended for being involved in an embezzlement case in his previous agency and who was terminated subsequently; in 2012 two members were imposed a total fine of Nu. 6,000/- for late declaration, which was deposited in the non-revenue account; in 2013, 6 declared during the grace period. This year, except for one person (on study leave) whose network was erratic, all declared on line like in 2012 and 2013.

On the DA, 13 members were triggered with it in 2012. The causes were increase in the market value of properties and typographical errors. The general AD system’s verification committee in

Figure 1.4: AD compliance rate from 2007 - 2014



procedures disseminated to the staff from time to time to prevent all avoidable risks and for compliance.

Asset Declaration Compliance

The ACC staff have been declaring their asset and liabilities ever since its introduction. Despite the challenge in enforcing the AD guideline and

the ACC recommended dropping all cases and was endorsed by the Commission. In 2013, out of eleven DA cases, further justification was sought from 3 members and rest were dropped for similar reasons mentioned above. Based on valid justifications of the three members, their cases were also dropped.

Like any other agency, AD compliance in the ACC is also subject to RAA’s scrutiny.

Parliamentary Resolutions and Their Implementation Status

The ACC has made sustained and conscious efforts in implementing the parliamentary resolutions specific to the institution and has accordingly made the annual submissions to the Parliament. Table 1.3 presents the consolidated information

(gist from the past reports) on the resolutions of both the houses pertaining to the ACC only over the period of nine years (2006 to 2014), updates in view of the current developments in the ACC but also in other institutions. The dates in the table indicate the dates of resolution and unlike in the past not the dates of deliberation on the reports or recommendations of the parliamentary committees.

Table 1.3: Parliamentary resolutions and its implementation status (2006 – 2014)

Resolution Dates	Resolutions	Implementation Status
National Assembly (NA)		
2nd Session, 1st Parliament 06/01/2009	1. Government to expedite review & consolidation of anti-corruption laws with recommendation for corresponding changes in other legislation.	ACAB 2006 amended to ACAB 2011. Penal Code and Civil & Criminal Procedure Code of Bhutan amended.
	2. Develop a standard policy & rule making protocol to avoid multiplicity & inconsistency of rules and policies.	Rules & Regulations for mainstreaming RIA System in Bhutan, 2011 approved by the erstwhile CoS in December 2011. Central RIA Unit established in Cabinet Secretariat (its effectiveness may have to be assessed). GNHC's Protocol for Policy Formulation in place. SCM Initiatives (which is otherwise a useful tool in assessing administrative burden integrated in RIA).
	3. All ministries & agencies ensure compliance of rules such as Bhutan Civil Service Rules 2006 e.g. Operationalization of code and conduct, declaration of conflict of interest. RCSC & ACC to partner in this area.	Mandated by BCSR 2012. ACC largely spearheaded awareness creation. Weak enforcement due to absence of training & compliance regime. CoI workshop conducted in 2014. RCSC's current civil service reform plans will address the issues. RCSC & ACC are working together in areas of common interests.
	4. Private sector to develop & operationalize business code of ethics.	Mandated as per the ACAB 2011 (Sec. 37); business codes of ethics exist without compliance regime. Private sector integrity management initiative to be ready for implementation by June 2015 (consultative process).

	5. Strengthen & standardize administrative penalties, specially on corruption charges so as to ensure consistency, fairness & transparency	Serious inconsistencies in administrative sanctions persist. ACC brought it to notice of RCSC. National Council also followed up with RCSC (then) on the issue. BCSR is not self implementable. Elaboration of rules for clarity & uniform application and an enforcement regime are imperative for rules to be meaningful. RCSC mindful of it & may discuss the issue during the revision of BCSR 2012 in due course of time.
	6. Ensure stringent & transparent system for recruitment of right people in leadership position.	‘Ensure political will and promote ethical leadership and integrity’ is one of the four strategic objectives of NIACS 2014-2018. RCSC’s Civil Service reform may address it.
	7. Fix supervisory accountability to promote the culture of strong and quality leadership in bureaucracy.	Establishment of Executive Management Division in RCSC, launching of executive course in August 2015 & information sharing between ACC-RCSC step towards it. Recruitment system itself has to be overhauled.
	8. ACC to come up with National Anti-Corruption Policy Framework.	Implementation of NIACS 2014-2018 integrated in 11th FYP’s Reporting Framework of GNHC through NKRA of “Corruption Reduced” & in GPMS.
	9. All ministries & agencies develop anti-corruption measures and mainstream, in association with ACC (emphasis on service improvement e.g. one-stop-services, service standard; reduction of cost such as administrative burden through SCM tool); ACC and RCSC to partner in this area.	G-2-C & PM’s personal monitoring through e-Desk expected to facilitate. Agencies, ministries & corporations are trained to conduct in-house CRM; a focal person is appointed in the agencies to update on the same. Ref. sl. no. 2 on SCM.
	10. All ministries & agencies to take ownership of decentralized AD System, which is an important tool to prevent corruption & enhance accountability of public officials.	While efforts made to adhere to AD Rules 2012, lacks due diligence; compliance rate is better but room for improvement. HRO’s ToR being revised to also include integrity promotion measures, among others; may lead to institutionalization of AD & greater discipline, diligence & compliance.
	11. As long time measures, all education & training institutions to include integrity development & value education in the curriculum.	Integrity & Value Education in Schools Survey (2012) conducted. Education Ministry’s introduction of infusing

		GNH values in schools a step towards it. ACC actively engages youth groups (students & CSOs). ACC-RIM dialogue to cover it. ACC sponsored RIM Director's and Changangkha MSS Principal's, participation in universal human value workshop in Hyderabad in December 2012.
	12. ACC has to be strengthened through conducive service condition.	In 2010, Cabinet approved 45 percent and 20 percent allowance for investigators & other professions, respectively. Incentive package submitted in 2013 report.
4th Session 07/12/2009	13. ACC & relevant agencies will educate & further strengthen the capacity of local government.	MoU signed between ACC, RIM & DLG. 205 gewogs covered in the general round of advocacy on corruption. 2nd round with focus on SA started; 74 gewogs covered till date. Continuous & collaborative efforts on.
	14. Government should take ownership of NACS framework & ensure timely implementation in both form & spirit, by all actors & institute a system of reporting implementation status to the parliament.	Refer sl. nos. 8 & 9
	15. Civil Service Code of Conduct and Ethics has not been operationalized properly by the RCSC & implementing agencies. In this regards, it was resolved that since the chairperson & members of the RCSC are working full time, henceforth the Commission should continue to strive towards operationalizing the Civil Service Code of Conduct & Ethics.	Incorporated in BCSR 2012; ACC still spearheading mainstreaming of ethics & integrity in the government system. Now, RCSC's reforms to address it. Public Service Model Code of Conduct developed in line with section 35 of ACAB 2011. Its implementation is integrated in NIACS 2014-2018.
	16. Gift Rules & AD need to be strictly implemented by concerned agencies. House accepted Gift Rules & AD procedures of the ACC.	Gift Rules 2009 revised as of 2013; final revision underway. Dissemination plan for effective implementation, which is currently weak, to be prepared & implemented. AD Rules 2012 being enforced; compliance rate is improving; greater diligence from declarants & administrators desired.
7th Session, 28/06/2011	17. ACC will continue conducting awareness campaign on prevention & reduction of corruption.	Ref sl. no. 13

	<p>18. A system of penalizing 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</p> <p>19. During the process of investigation, if RAA suspects serious corruption in agencies the RAA will forthwith forward the case to the ACC for further action.</p>	<p>As per section 137 of ACAB 2011, ACC makes disciplinary referrals to agencies for administrative lapses. Agencies must submit to the ACC a report on actions taken. Enforcement poor without accountability.</p> <p>Institutionalized but ACC unable to act promptly due to overwhelming works in hand.</p>
<p>9th Session 18/6/2012</p>	<p>20. To report on number of corruption cases received & solved & reason behind unsolved cases in addition to inclusion of recommendations from the Commission.</p>	<p>Reported in 2013 annual report</p>
<p>1st Session, 2nd Parliament, 13/09/2013</p>	<p>21. NACS which is under implementation by the agencies must be continued. The implementation report submitted by the Committee of Secretaries (CoS) to the Commission must be reported to the Parliament through its annual report.</p> <p>22. Since the ACC does not have absolute independence over human resource administration, Legislative Committee must review the Constitution of Kingdom of Bhutan & other relevant laws & report in relation to providing absolute independence over human resource administration to the Commission to enable it to perform its mandates and duties effectively.</p>	<p>No report from CoS received.</p> <p>Refer sl. nos. 8 & 9</p> <p>As directed by GGC, ACC made a detailed presentation to GGC & Legislative Committee on issues related to its independence on Jan 8, 2014.</p> <p>Presentation on ACC's independence, among other issues also made to the Cabinet & CoS on Feb 25 & 27, 2014.</p>

2nd Session 07/02/2014	<p>23. NA following the recommendations/proposals of the GGC had directed the ACC and RCSC to mutually resolve the human resource issues.</p>	<p>Dialogue ongoing with RCSC; MoU to be signed this year as an interim measure. Letter to that effect has been written to the Speaker. GGC also recommended seeking interpretation from the Supreme Court. Independence guaranteed by the Constitution has to be operationalized.</p>
	<p>24. 6 recommendations of GGC-supported by the House:</p> <ul style="list-style-type: none"> • Permit the ACC to determine its own staffing pattern by taking a liberal interpretation of the phrase “in consultation” in Sections 28 of the Civil Service Act & Section 8 of the Anti-Corruption Act. • Relax the criteria of “Certificate of Eligibility” in the case of technical graduates, by amending Rule No. 4.4.3. of the BCSR. • Encourage graduates to join the ACC by enhancing the remunerations of the ACC employees & mandate the Pay Commission to consider the matter. • Respective agencies should issue No Objection Certificate (NOC) to those interested candidates wishing to get transferred to the ACC. • Delegate the powers of the RCSC to the ACC in relation to the development and implementation of performance appraisal system which may be monitored by the RCSC from time to time. • Permit the ACC to provide short-term trainings to contractual employees, by amending Section 9 of the BCSR. 	<p>Draft MoU addresses most of the issues.</p> <p>Beyond the powers of ACC to mandate the Pay Commission. Who was responsible for the implementation of the resolution?</p>

3rd Session, 27/05/2014	25. Ministries & agencies should take administrative actions on those cases returned by ACC. Depending upon the nature of administrative cases; ACC should also take administrative actions from their end so as to enhance confidence of people in the institution.	Compliance poor. Agencies have to act & not ACC to act on behalf of agencies; accountability has to be fixed for failing to act appropriately.
	26. All ministries & agencies should collaborate, coordinate & share information to avoid apparent corrupt practices as surfaced in one of the financial institutions. The executive should issue necessary directives to concerned agencies to create a platform or mechanism for improving collaboration & coordination.	ACC continues to engage stakeholders; MoUs being signed with willing stakeholders.
	27. There is a need to institute or establish mechanisms to share information & coordinate & collaborate, especially amongst regulatory & enforcement agencies. This will lead to effective, coordinated and collaborative actions against corruption.	-do-
	28. Since the implementation of NIACS, CRM & IDT demand time & effort on the part of implementing agencies, ACC is recommended to develop strategies & tools that are user-friendly & focus on one or two key strategies that will address the systemic problems or flaws reflected in the report.	CRM Manual developed & conducting CRM/ IDT ToTs in agencies.
	29. NIACS & CRM to be implemented across all ministries & agencies in the country.	-do- Efforts also have to be made by institutions & agencies themselves.
	30. ACC may be allowed to pick up capable & committed senior level officers from the pool of senior civil servants on deputation with attractive incentive packages.	Challenge to implement; attractive incentive packages will be discussed with RCSC along with the draft MoU, laws permitting, which is ready for sharing.

National Council (NC)		
4th Session, 24/11/2009	1. Government & ACC have to ensure uniform administrative actions & strict monitoring of senior officers to curb corrupt practices.	Problem persists. RCSC, then and now, intimidated.
7th Session, 30/06/2011	2. Government to consider incorporating corruption & ethics in schools & higher education curriculum based on our traditional value system of “Ley-Jumdey” as a long term strategy to fighting corruption.	Refer sl. no. 11 of NA resolution
	3. Government & ACC should conduct training & workshops on utilization of budget & related procedures to the local governments.	Government has to take it up. However, joint implementation of SA program in local governance expected to enhance greater transparency & judicious use of funds.
9th Session, 04/07/2012	4. Considering the weak implementation of NACS, Royal Government should ensure implementation of NACS considering that it had taken ownership of the important strategy in order to curb corruption through both preventive & investigative measures.	Refer sl. nos. 8 & 9
	5. GGC, in collaboration with ACC, should study the factors that determine sluggish implementation of NACS & report to NC during the 10th Session.	As desired, information on the implementation of NACS furnished to GGC.
	6. ACC to expedite the formation of Debarment Rules & its implementation in order to address issues of high degree of corruption in public procurement & construction sectors.	Debarment Rules 2009 revised in 2013; Debarment Committee not yet functional. PPPD in collaboration with CDB disseminated Debarment Rules 2013 to 2578 contractors & 179 procuring agencies in dzongkhag; Rules also distributed (partly).
	7. The ACC to review the Gift Rules 2009 to ensure it was implementable.	Gift Rules 2009 revised; final revisions being made; will be published before June 2015, disseminated & enforced.

	8. ACC should expedite CRM exercise across all agencies beginning with those which are highly vulnerable to corruption.	30 CRM exercises conducted in 26 agencies (see Section 4, pages 83 - 84 for details).
	9. ACC should consider instituting a channel for relaying actions taken on non-anonymous complainants received.	IMS has a provision to inform complainants on the action taken on their complaints which may be made operational in near future.
	10. ACC should enhance its efforts on proactive investigations.	It is also ACC's desire but easier said than done because of being overburdened with complaints, which will continue unless agencies change in how they conduct their business and people trust them.
	11. ACC should include in its annual report case log sheets & AD of the Commission.	Commissioners attached their AD in 2010 annual report; now complying with AD 2012. Until 2010, case logs included in the annual reports & even issued as Kuensel supplement once. Cannot include in the report since it becomes voluminous but will be made available to anyone interested & will also be posted on ACC's website.
	12. ACC should include local government Tshogpas/Thromde Thuemis in its public education and advocacy program.	They are core to the advocacy & capacity development programs.
11th Session, 26 & 27/9/ 2013	13. ACC must give importance in establishing complaint management service in gewogs.	Implementation of SA program is an effort towards that where citizens play an important role. Besides, local government also has to create a conducive environment for an effective grievance redressal mechanism.
12th Session, 07/02/2014	14. ACC to review & submit a report on the misuse & seizure of Government land & reserved forest in 20 dzongkags to the NC.	While it is critical, ACC will not be able to do so due to overwhelming works in hand managed by limited staff. NLCS may be in the process of conducting a similar task.
13th Session, 6 & 17/6/2014.	15. Submit the subsequent annual reports latest by April.	Implemented with this report; attempt will be made.
	16. Incorporate the following information in its future annual reports, if available:	

	<ul style="list-style-type: none"> • Details of agencies & cases for which Courts "judgments are not implemented; and • Actions taken against those individuals whose asset declaration showed disproportionate assets. 	<p>Gist presented in the report (pages 119 - 120). A separate case log will be submitted for perusal.</p> <p>Status presented on pages 94 - 96.</p>
14th Session, 28 & 1/12/2014	17. To conduct detailed investigation to find out how and who were involved in disclosing and sharing the Final Mines Feasibility Study reports on leasing Government land, Government Reserve Forest land and mines and to take actions against individuals.	RAA document reviewed. Six reports related to an ongoing review of a case; two relate to past investigation, namely, Daraleypakha stone quarry.

All the resolutions that the ACC bears direct responsibility for, and within its means have been implemented with qualifications in some cases. An important question that has to be asked is how are the other institutions, including those that pass the resolutions implementing the same. Every individual and institution is vulnerable to corruption, degree of vulnerability increasing with greater hold over resources including power. It was submitted in the past regarding the need to establish an effective system of monitoring the implementation of all parliamentary resolutions.

Another issue that some members of the National Assembly have been emphasizing is that the ACC's annual reports do not contain recommendations like in the RAA reports. The two institutions cannot be compared merely because the scope and complexity of their mandates totally differ and hence their reports. Every annual report highlights important challenges in the fight against corruption; in them lie the recommendations, which should compel self introspection by the leaders and collective organizational introspection led from the very top person of institutions and agencies vis-à-vis the Government's unambiguous policy of "Zero Tolerance for Corruption" and higher national goals. Fight against corruption has to first begin with self – individual person or an entity.

External Review: ACA Strengthening Initiative

The TI Secretariat, Berlin has initiated a project called 'ACA Strengthening Initiative' to comparatively assess performance of anti-corruption agencies in the Asia-Pacific region. Bhutan is an active participant of the project as part of the ADB/OCED Anti-Corruption Initiative for the region. Further, the ACC has chosen to be the first anti-corruption agency to be assessed by an external expert team. The team will assess ACC's performance using 68 indicators related to independence, resources, functional outputs, accountability, citizens' perception and partnership.

The performance report is expected to be published sometime in 2015. Such an independent assessment is expected to facilitate the Government and the ACC in understanding and reconfirming strengths, weaknesses and risks of the latter and guide the concerned parties in identifying strategic interventions in enhancing performance of the ACC and beyond. The pilot exercise will also help in gauging the robustness or weakness of the initiative.

The timing is perfect as the report would assist the new Commission in understanding

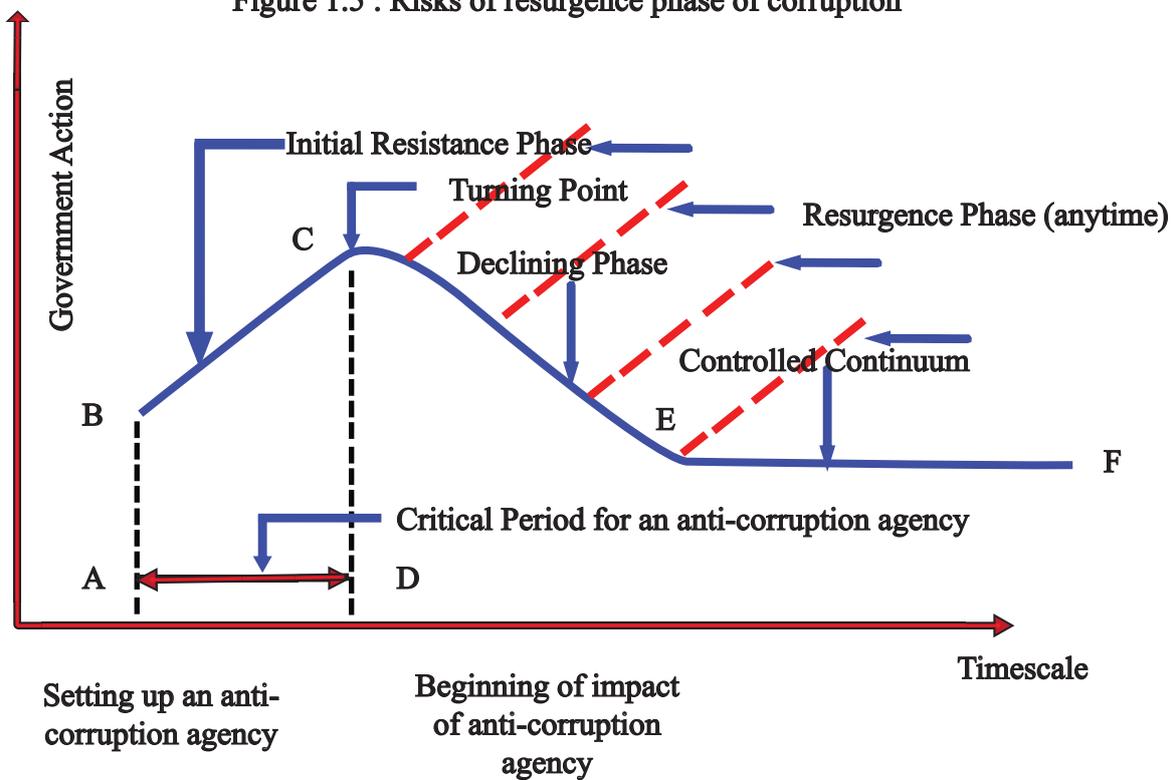
the institution and determining its priorities. With the benevolent blessings of the guardian deities and Their Majesties the Kings, support from the citizenry and agencies and the goodwill of development partners, the ACC, without being presumptuous, can boast of having performed modestly and the moderate level of public trust and confidence that it enjoys. Fight against corruption has no respite. Corruption poses serious risks to Bhutan, a small nation in a flux of change, socially and politically. Corruption is a cause for deep concern for Their Majesties the Kings.

Fighting corruption requires constant and concerted efforts from all stakeholders. Constant pressure through concerted efforts from all quarters against corruption must continue at all times. There is no room for any complacency that will catch the ACC and other stakeholders off guard. Such lapses from the ACC and stakeholders will result in resurgence of corruption

any time. Resurgence phase of corruption, besides nullifying all past gains will be very tough to tackle and bring it under controlled phase again. Figure 1.5 clearly illustrates the various phases in the fight against corruption, a growing menace world over but controllable in Bhutan.

The ACC as a lead anti-corruption institution bears the important responsibility of leading the fight against corruption in the country but not to fight alone, a risk that Bhutan, her leaders and the citizenry can ill afford to take. The citizenry must have the grit and resolve to unite with a single objective to fight corruption. In the collective fight against corruption, robust anti-corruption systems and infrastructures have to be put in place and strengthened. Open government through transparency measures, free media for check and balance and public engagement for accountability have to be practiced in true spirit for Bhutan's continued progress.

Figure 1.5 : Risks of resurgence phase of corruption



Section 2

AT THE CORE: PEOPLE, CULTURE & INSTITUTION

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Section 2

AT THE CORE: PEOPLE, CULTURE AND INSTITUTION

Building itself into an incorruptible, credible, effective and a trustworthy institution in fulfilling the vision of ‘Building a happy, harmonious and corruption free society’ has always been one of the most important priorities of the ACC. It is a critical precondition to fighting corruption in the country. At its core lie selfless, loyal and top brass professionals and an organizational culture that nurtures such professionals who earn unwavering public trust and confidence. It is a long way to that goal. It calls for unconditional, continuous and conscious commitment of all in the ACC and more importantly its leaders. Institution building has been a priority for the ACC, ensuring that it functions effectively and efficiently without fear, favour or prejudice; that it has the capability to meet the demands placed on it; and continuously builds its capacity and capability so that it can proactively respond to emergent situations and challenges. Towards this end, conscious and sustained efforts have been made in setting professional standards, providing adequate and suitable human, material and financial resources, setting a clear and appropriate organizational focus and suitable mechanisms including organizational structure and functions for effective operations of the institution.

This section presents the ACC’s efforts made towards strengthening the institution thus far. Among others, organizational structure, policy and procedures, systems, efforts made in embedding integrity and enhancing motivation through organizational health checkups, instruments such as the ethical code of conduct and awards, human resource management and development and development partners’ goodwill & generous support and infrastructure facilities are also discussed.

The Organizational Structure

The new organizational structure (Figure 2.1) was launched in February 2013. The structure has two thematic Departments (A & B) which

are further categorized into service areas such as Land and Natural Resources; Finance and Business; Social and Political; Procurement and Construction; Human Resource Management and Development; and Miscellaneous Services (to cover other services that may emerge as vulnerable areas). Policy, Planning & Research, Asset Declaration Management and IT Services and Communications (product development and public relations) are merged with the Administration and Finance to form the Corporate Services. Technical Support and the Legal Services operate under the direction of the Commission along with the Complaints Management, Follow-up and Documentation Services.

When the ACC started in 2006, the organizational structure was aligned along the three conventional core functions of investigation, prevention and public Education (Figure 2.2). It was divided into four operational divisions, namely investigation, legal, prevention, and public education, all of which were supported by the administrative, ICT and Policy & Planning divisions, headed by a director.

Drawing lessons from the past years and driven by the desire to create greater impact, the institution was restructured to generate a wholesome approach in addressing corruption issues through synergizing the three core functions along sectoral lines. This enabled the ACC to proactively focus on sectors that were prone to corruption and more importantly those that had larger bearing on public good; it also created the opportunity to proactively address emerging issues.

As a part of the larger institutional development program, the process of restructuring started as early as in 2010 with extensive and dynamic internal deliberations.

External reviews such as the Crown Agents’ report, titled “Review of the ACC & Progress on the Development of a National Anti-Corruption

Figure 2.1: Revised organizational structure of ACC

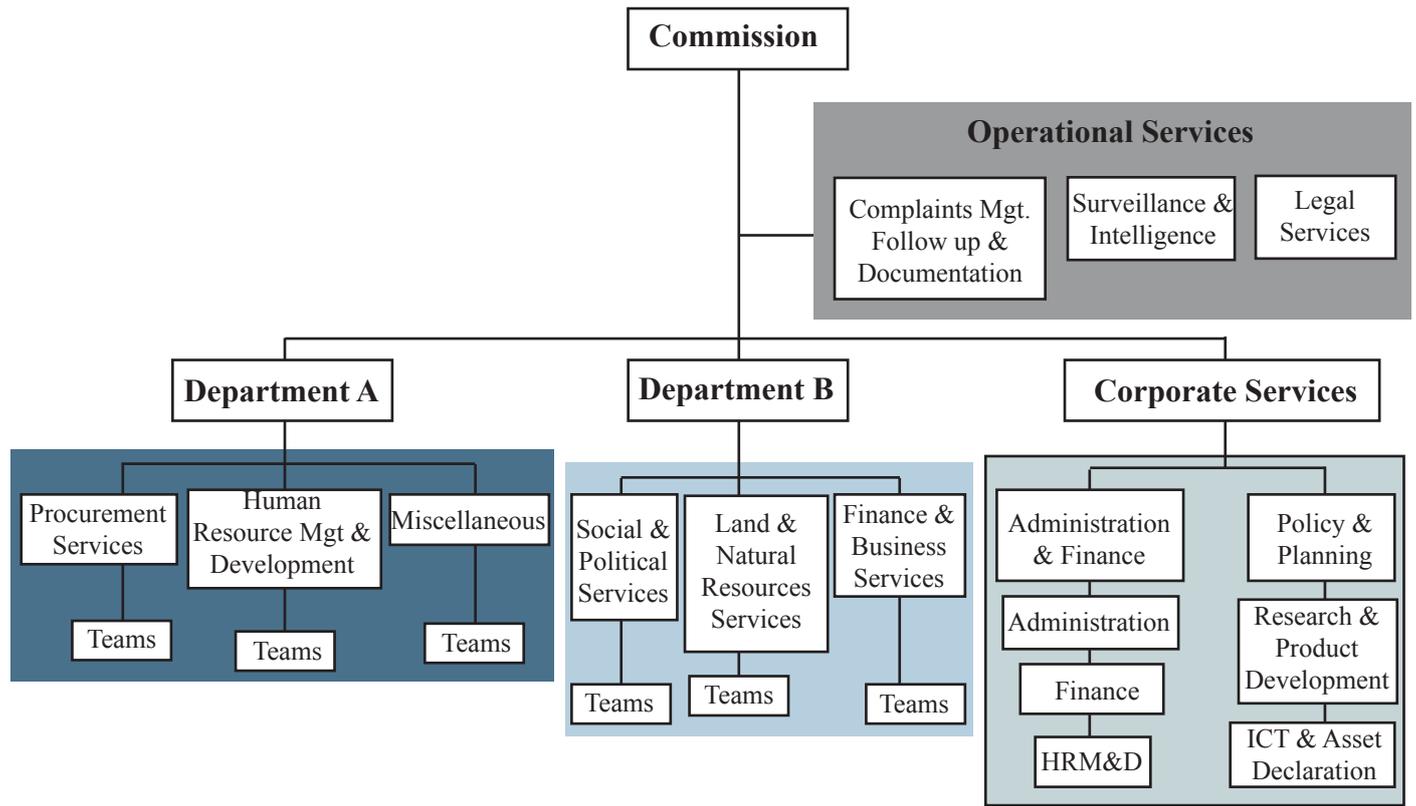
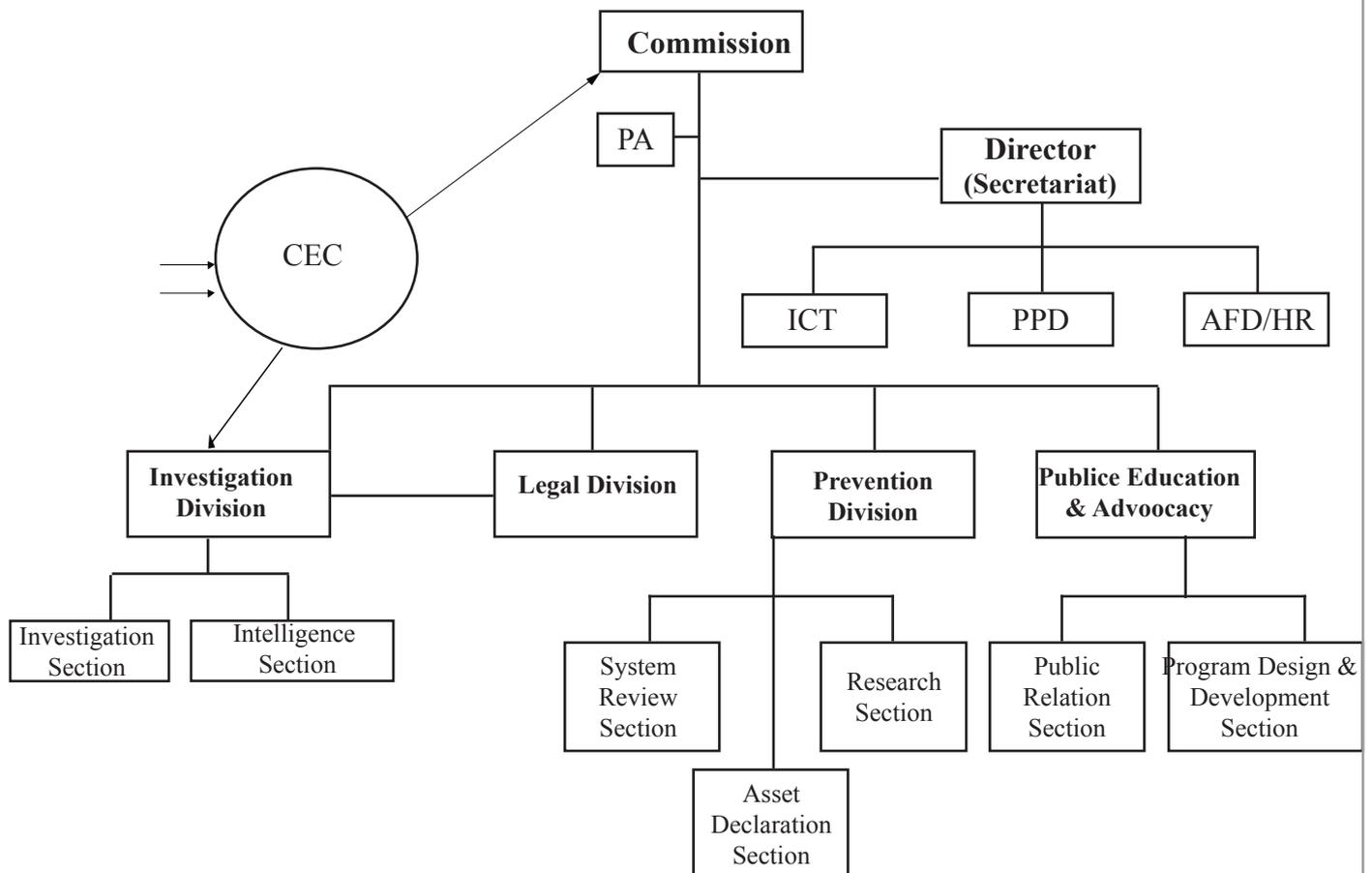


Figure 2.2 : Old organizational structure of ACC



Strategy Report” in December 2007; UNODC and UNDP report, “Capacity Assessment of ACC,” in August 2010 and ACC’s Institutional Development Plan (IDP) 2011-2020 in 2011 and the ADB assisted Change Management Plan in 2013 (operationalization of IDP) further consolidated the internal proposals.

Besides creating greater anti-corruption impact, the restructuring also facilitated in promoting greater professionalization, enhancing career opportunities and in addressing (partially) the perennial challenge of attracting and retaining staff.

Policies, Procedures and Manuals

In the ACC’s continuing efforts to make itself a system-driven institution, many policies, procedures, protocols, standards, manuals and guidelines have been developed and implemented to streamline the delivery of the three core services of prevention, education and investigation. These documents have been consolidated and standardized into one main document called the ACC Operation Manual. It builds on the past experience, on guidance and recommendations made by users/evaluators, on the best practices gathered over the years and on the constructive inputs by all ACC staff. The Operation Manual consists of five parts based on functions/services the institution delivers, namely, (i) Complaint Management; (ii) Investigation; (iii) Technical Support Services; (iv) Prevention & Education; and (v) Corporate Services. Each part has different volumes.

Standard operating protocols for conduct of any function or mandate of the ACC reduces the risk of exercising discretionary authority on a ‘case by case’ basis. It also ensures uniformity and consistency in the conduct of its business and the decision that it takes, serves as a communication tool, improves transparency and enables transfer of knowledge and skills, thus embedding professionalism within the organizational culture.

Embedding Integrity

Regular organizational health checkup is imperative for all, more importantly for institutions of governance. The ACC has adopted health or in-

tegrity promotion tools such as CRM and IDT for assessing as well as addressing integrity problems and corruption risks in the institution. So far, two CRM exercises (31 March 2010 & 31 March 2014) and four integrity diagnoses (refer Table 2.1) have been conducted in the ACC since their adoption in March 2010 and October 2012, respectively. The analysis and results of the CRM exercises and the integrity diagnoses were amply discussed and presented in the last report to the Parliament.

During the reporting year, the ACC conducted the 4th integrity diagnosis on 6 March 2015. For the first time, it was administered online using Google forms, saving time and other resources. It was also refined based on the feedbacks from the previous diagnoses particularly in terms of simplification of questionnaires and redefining terminologies such as leaders, management and stakeholders for common understanding and for proper and accurate benchmarking. For example, the parameter, “Leaders and members of the organization share/follow core values that guide actions and behavior” of the past diagnoses has been amended as “Top leaders of the organization follow core values that guide actions and behavior”. Therefore, differences in the terminologies used in the past and recent diagnoses will be noticed but in essence they mean the same; there is greater clarity now. 50 percent of the ACC staff responded to the questionnaire. Figure 2.3 shows the overall organizational integrity scores from the 4th diagnosis.

The organizational integrity score has increased from 82.08 (third diagnosis) to 88.89 (fourth diagnosis), higher by 6.81 points, which is very good. The scores have been progressively increasing over the past three years since the pilot test in October 2012 (refer Table 2.1).

The lowest disaggregated score is 81 in ‘professionalism and respect by top leaders’ and the highest is 96 in ‘Organization clearly defined vision and mission’. This has been the trend in all the diagnoses (refer Figure 2.4), which is not surprising because the parameters with lower scores deal with softer aspects of people, their perception and disposition.

Figure 2.3: Overall organizational integrity scores (4th ID)

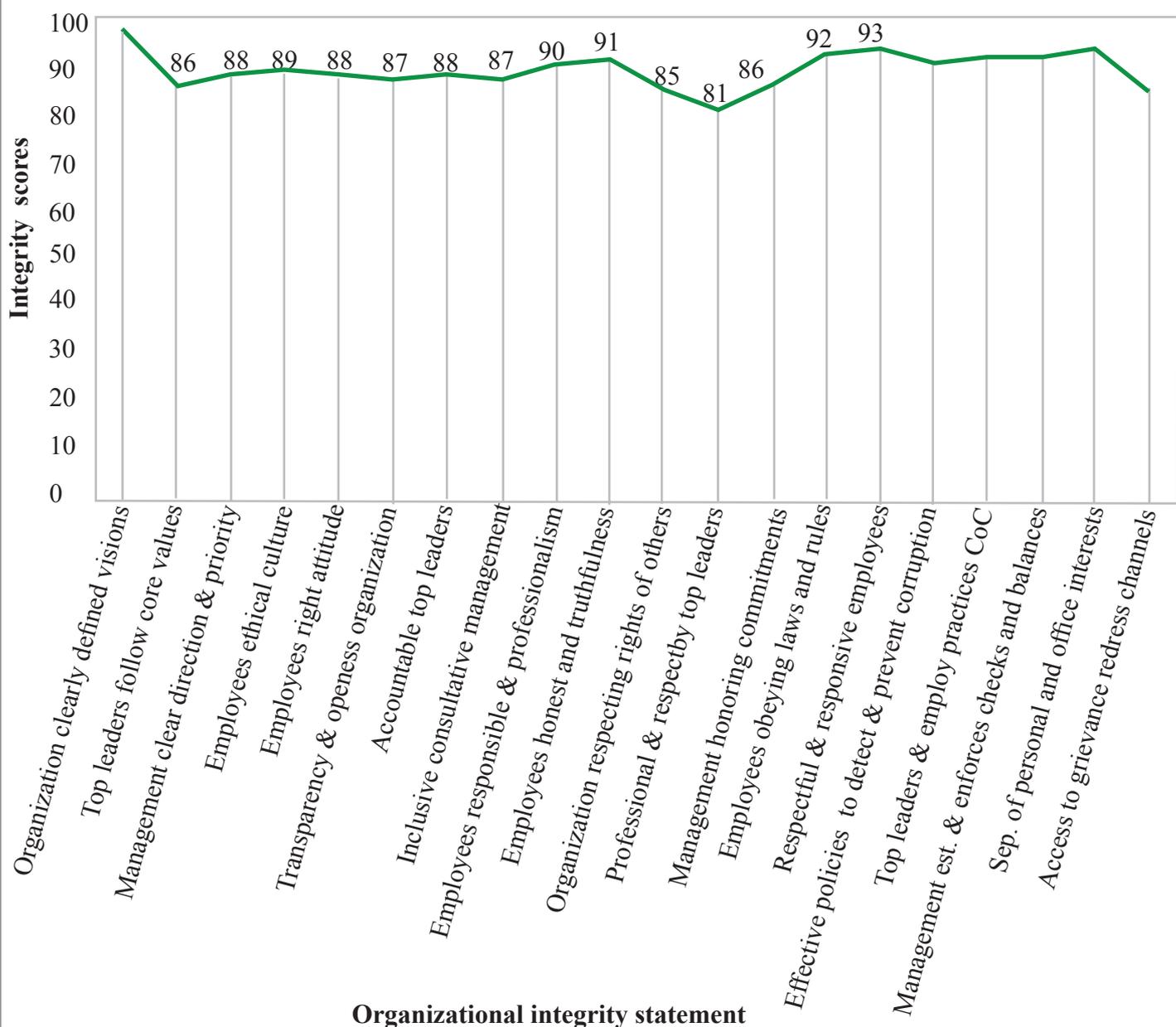


Table 2.1 : Overall integrity scores comparison

SN	Year of Conduct	ID in ACC	Organizational Integrity Scores	Scores Differences
1	October 2012	Pilot test	73.97	N/A
2	February 2013	Re-test	81.62	+7.65
3	March 2014	3rd	82.08	+0.46
4	March 2015	4th	88.89	+6.81

The integrity issues under “conscience”, namely, ‘access to grievance redress mechanism’, ‘management honoring commitments’, ‘professionalism and respect by top leaders’ and ‘organization respecting rights of others’, in comparison to others, have consistently scored less despite the institution being flat with open culture and space for dialogue and accommodation of differing opinions, emphasis on strengthening internal communications and establishment of GRM, which not a single employee used. This could be

due to varying perceptions of the respondents depending on their job experiences, understanding, maturity, professionalism and not the least their aspirations and expectations. Nonetheless, except for four parameters, scores for all other parameters are quite close (hence the diamond shape in Figure 2.6) including the aggregate scores of the four pillars, namely, ‘compass’, ‘control’, ‘conscience’ and ‘character’ it is a positive development (Table 2.2).

Figure 2.4: Overall organization integrity scores comparison (pilot, re-test, 3rd and 4th IDT)

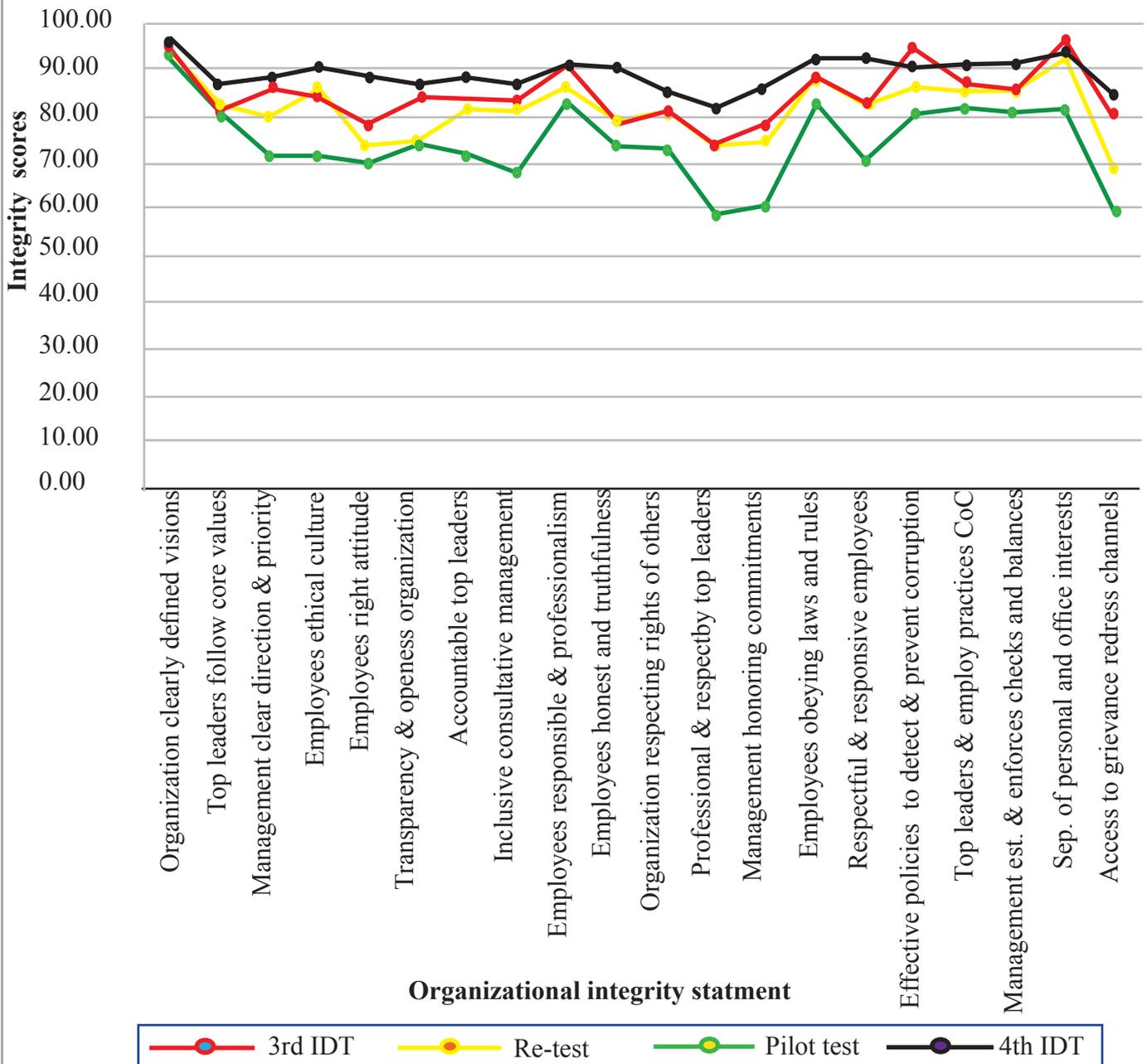
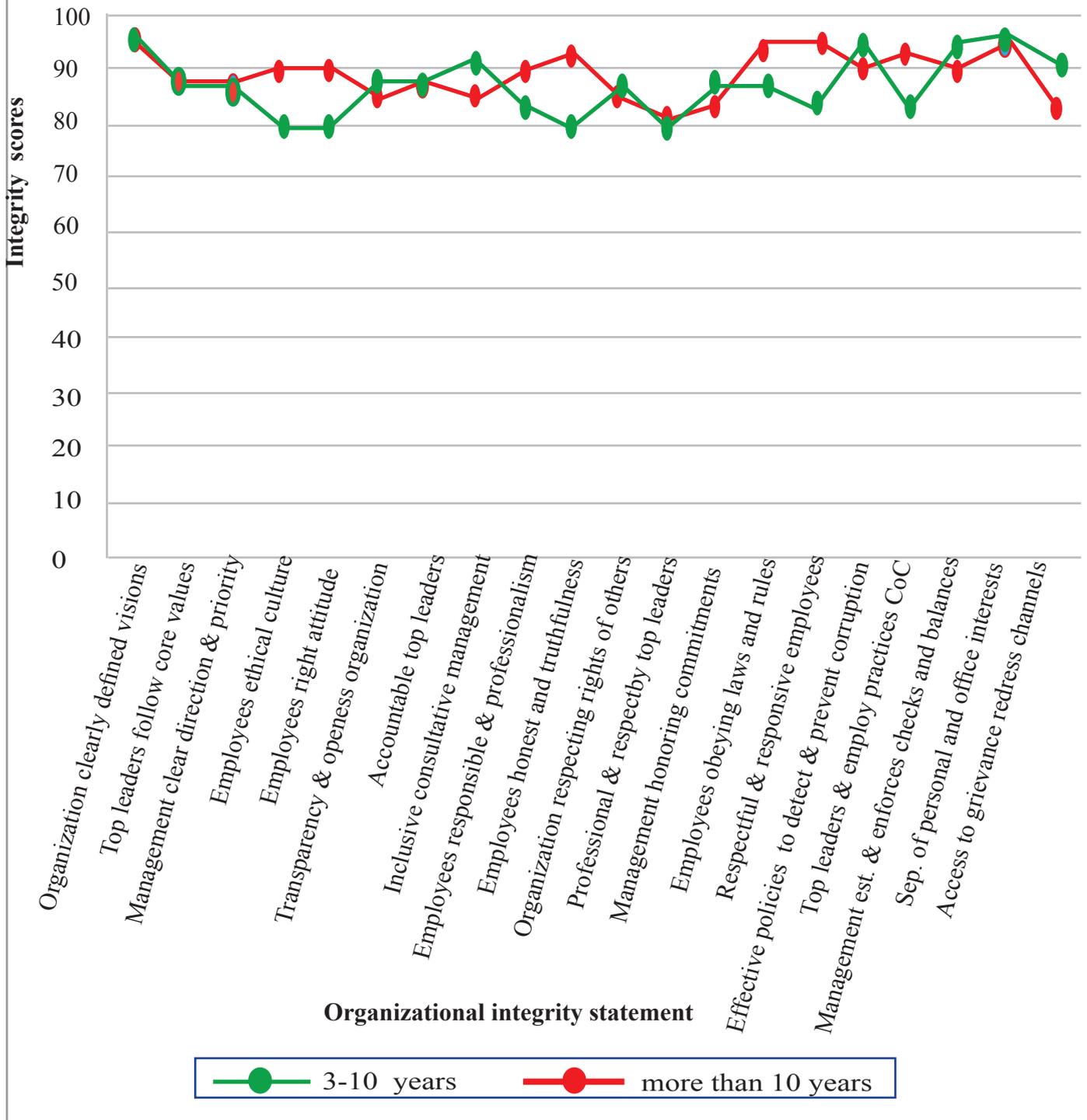


Figure 2.5: Integrity scores based on respondents' years of service



Further, Figure 2.5 indicates the scores of respondents based on their years of service. It interestingly illustrates the divergence of views between the younger and older employees on the softer parameters. This has been the trend with all the past diagnoses; it may be a manifestation of the gap between the aspirations of the younger generation and the expectations of the older generation. Is it a generational divide? It may characterize

the pervasive culture of problem-is-not-with-me-but-the-rest of the public service. The gap has to be comprehended well, professionally and psychologically and minimized. As such, clear understanding of the integrity issues in the institution by every ACC member, as highlighted in the past report, is critical for the results of a diagnosis to be authentic and importantly for the right interventions to be made.

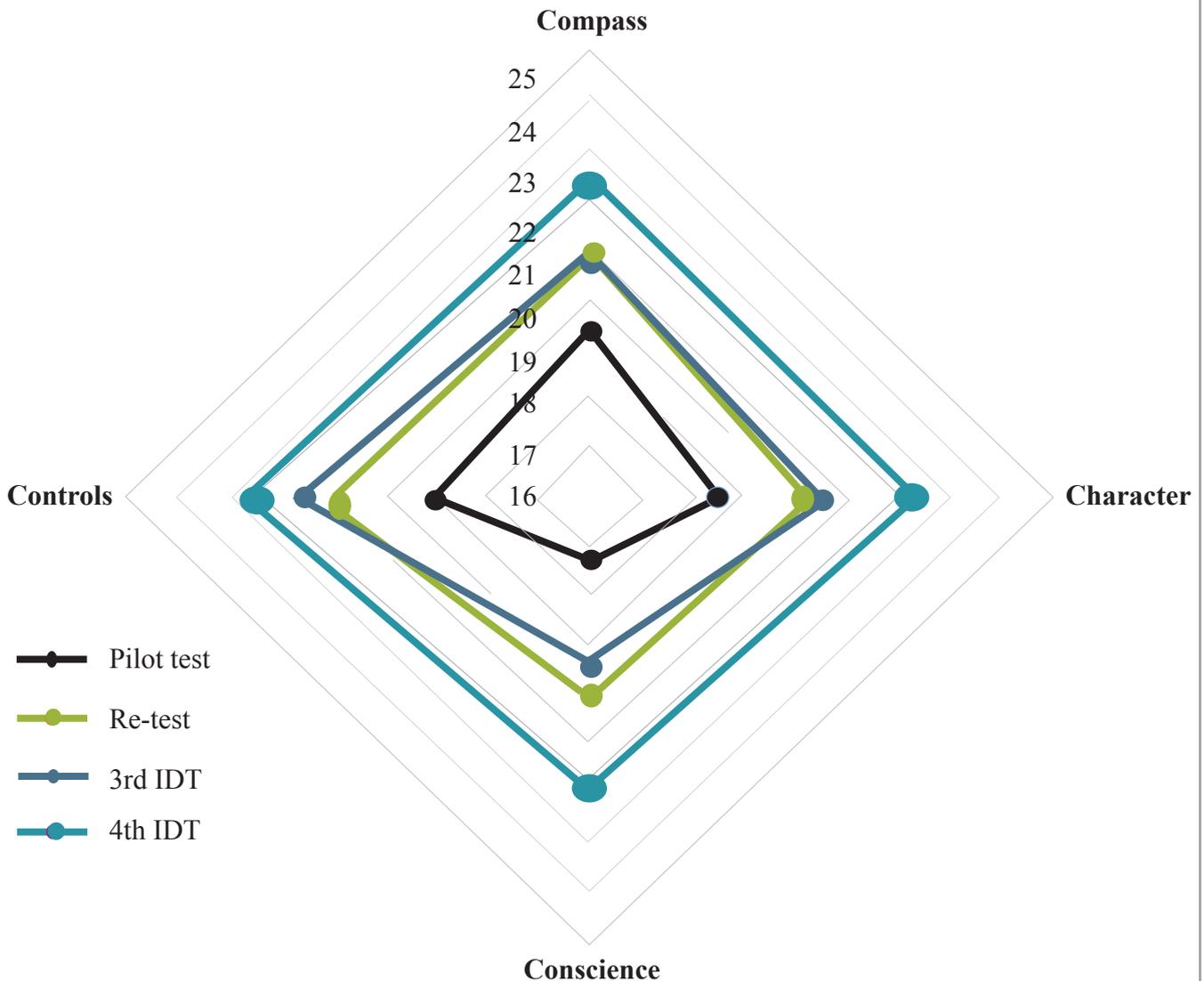
Figure 2.6 illustrates the integrity diamonds of the four diagnoses conducted in the ACC. Better the shape of the diamond, better is the health of an organization. There is a distinct difference in the shapes of the diamonds, the best being that of the 4th diagnosis a near perfect diamond shape; it

indicates good organizational health of the ACC. As elicited by the results of the successive diagnoses, the ACC is strong in integrity issues under “compass” which is extrinsic and comparatively weak in integrity issues under “conscience”, which is intrinsic and value driven. Among oth-

Table 2.2: Integrity scores based on four pillars of IDT

ID /Pillar	Compass	Character	Conscience	Controls
Pilot test	19.31	18.45	17.19	19.02
Re-test	20.9	19.97	19.95	20.8
3rd	20.72	20.46	19.3	21.6
4th	22.34	22.17	21.83	22.54

Figure 2.6: Integrity diamond comparison



ers, the result also indicates that adequate systems, policies and procedures are in place for its operations and that it is not a personality driven institution. Conscious and sustained efforts have been made to improve the integrity scores by not only discussing about it openly and together but also putting in place integrity measures and interventions; equally important are the behavioural standards set and example demonstrated by the top team. Issues highlighted by the diagnoses are discussed in the CRM exercise and accordingly measures taken to address them.

Together with the 4th integrity diagnosis, the 2nd CRM exercise's action plan was reviewed collectively by the staff. Most of the measures have been adopted and implemented. Out of 30 measures identified, 25 are ongoing (83.33 percent), 4 needed operationalization (13.33 percent) and one has not been implemented (3.33 percent) i.e. issue an office order/circular educating all public agencies on the potential misuse of ACC name and authority by ACC officials (it is anyways addressed during interactions as it is one of the most frequently asked questions). The review also highlighted the need to make the measures more activity oriented than just statements.

In an effort towards institutionalizing the tools, it will now be included as a regular function of the administration, which otherwise was administered by the policy and planning service. Reviews will be conducted biannually and manuals on CRM and IDT will be used as a guide.

ACC Ethical Code of Conduct

The ACC adopted its Ethical Code of Conduct in July 2008, which is beyond mere inscription of do's and don'ts; everyone joining the ACC signs it after having understood it, committing to it in letter and spirit. The Ethical Code of Conduct, 2008 has been reviewed for comprehensiveness and greater clarity in ensuring effective compliance and enforcement; it will adopted by May 2015.

Till date, the Ethics Committee has dealt with seven disciplinary cases, two following complaints from outside. The corresponding actions,

two major, ranging from withholding promotion and increment, reimbursement for damage and reprimand. Counseling is a natural process of post disciplinary action. In the prevailing general culture of the civil service, none of the seven disciplinary cases would have called the attention of any agency because they would be considered as normal; or at most the individuals would have been casually reprimanded. What is normal in the larger system is not normal for the ACC. As someone said, "Wrong is wrong even if everyone is doing it. Right is right even if no one is doing it".

Some of the operatives of the ACC's Ethical Code of Conduct are:

Service Standards

A service standard is defined to serve service recipients in time with professionalism, respect, courtesy and impartiality – quality in content and delivery. It is an instrument, popularly known as citizens' charter in some countries, which is designed and promulgated to enhance efficiency, transparency and accountability. It has to be institutionalized in the internal governance system of an agency, disseminated (internally among employees and externally among clients) and monitored through grievance redressal mechanism. Efficient and effective administration and financial services; speedy response to calls, visitors, complaints and investigation; and high level of cooperation and coordination with people and organizations are some of the important standards defined in the ACC's service standards 2014, revision of 2006 standards.

Grievance Redressal Mechanism

The ACC adopted its GRM in February 2014 to promote professional conduct of its staff for a fair, equitable and productive work environment. It was a part of the implementation of the Change Management Plan and a recommendation of the integrity diagnosis conducted in-house in October 2012. It provides a formal platform for the employees to express their grievances openly against anything and anyone without fear of retribution for timely, transparent, consistent and ef-

fective response. However, till date, not a single grievance has been reported to the committee.

Results of the ACC's 3rd integrity diagnosis conducted in March 2014 saw improvements in the scores for access to grievance redress channels and existence of transparency and openness in the institution. This is a positive characteristic of an evolving organization.

ACC Employee of the Year Award

The Employee of the Year Award was launched on 31 December 2014, commemoration of the institution's 9th Foundation Day. This was instituted with an aim to reinforce stewardship of the Ethical Code of Conduct by all the employees; retain high performing employees, motivate them and through such recognition inspire others; encourage initiatives and inculcate leadership qualities in the members; and create young role models in the public service.

Decision is taken collectively through nominations and voting using electronic voting machine of the three candidates that receive the highest nominations. The candidate who secures a minimum of 85 percent of the total votes receives the award. Gyeltshen, Chief Integrity Promotion Officer, Kinley Wangmo, Assistant Planning Officer and Rinchen Namgay, Assistant Communications Officer received the highest nominations; they secured 45 percent, 37 percent and 18 percent of the votes. This will be an annual event. The criterion will also be revisited for reasonableness.

The Civil Service Award 2014

In keeping with the Royal Command and the requirements of the Civil Service Act of Bhutan 2010 (Section 88), the Royal Civil Service Commission instituted the Civil Service Awards in 2013. It is not only to acknowledge the valuable services of the civil servants but also to motivate them to continue serving the country and people and through it the King. In 2013, seventeen ACC staff were honored with the Awards. During the reporting year, seven more received the Awards totaling the number of recipients to twenty four

with two gold, six silver and sixteen bronze medals.

Human Resource Management & Development

Over the past nine years much has been achieved in the area of institutional development. However, sustaining it remains a serious challenge for the young institution.

Recruitment and Retention

During the reporting period, fourteen new members joined the ACC: five appointed by the RCSC; two diploma holders in electrical and civil engineering recruited during its first career briefing and campus recruitment from JNP; five recruited through open competition and two came on transfer. On the other hand, it also saw separation of eight members (two integrity promotion officers, one legal and five corporate sector employees-accounts, research, planning and elementary service personnel) for various reasons. As compared to the earlier reporting period, the attrition rate reduced from 16.2 percent to 10.2 percent.

The staff strength increased to 78 from 72 in 2013, as against the total strength of 128 in the 11thFYP (excludes three Commissioners and five elementary service personnel). 37 of the employees are integrity promotion officers, 5 legal officers, 28 are with the corporate services, which also includes support staff.

Consolidation of 9 Years (2006 – March 2015)

The ACC started its operation with only four members in 2006: chairperson, finance officer, office assistant and a driver, which grew to twenty (ten support staff) towards the end of the same year. At one point in time, in 2007, when the newly established ACC faced challenges in recruiting staff, the Royal Government had to intervene in inducting thirteen additional staff handpicked from various agencies; four are still there. Between January 2006 and March 2015, 116 people including support staff such as drivers and elementary service personnel were recruited; 50 left the ACC in a span of nine years

Nominees for the ACC Employee of the Year Award



Rinchen Namgay
Asst. Comm. Officer
Policy & Planning Services

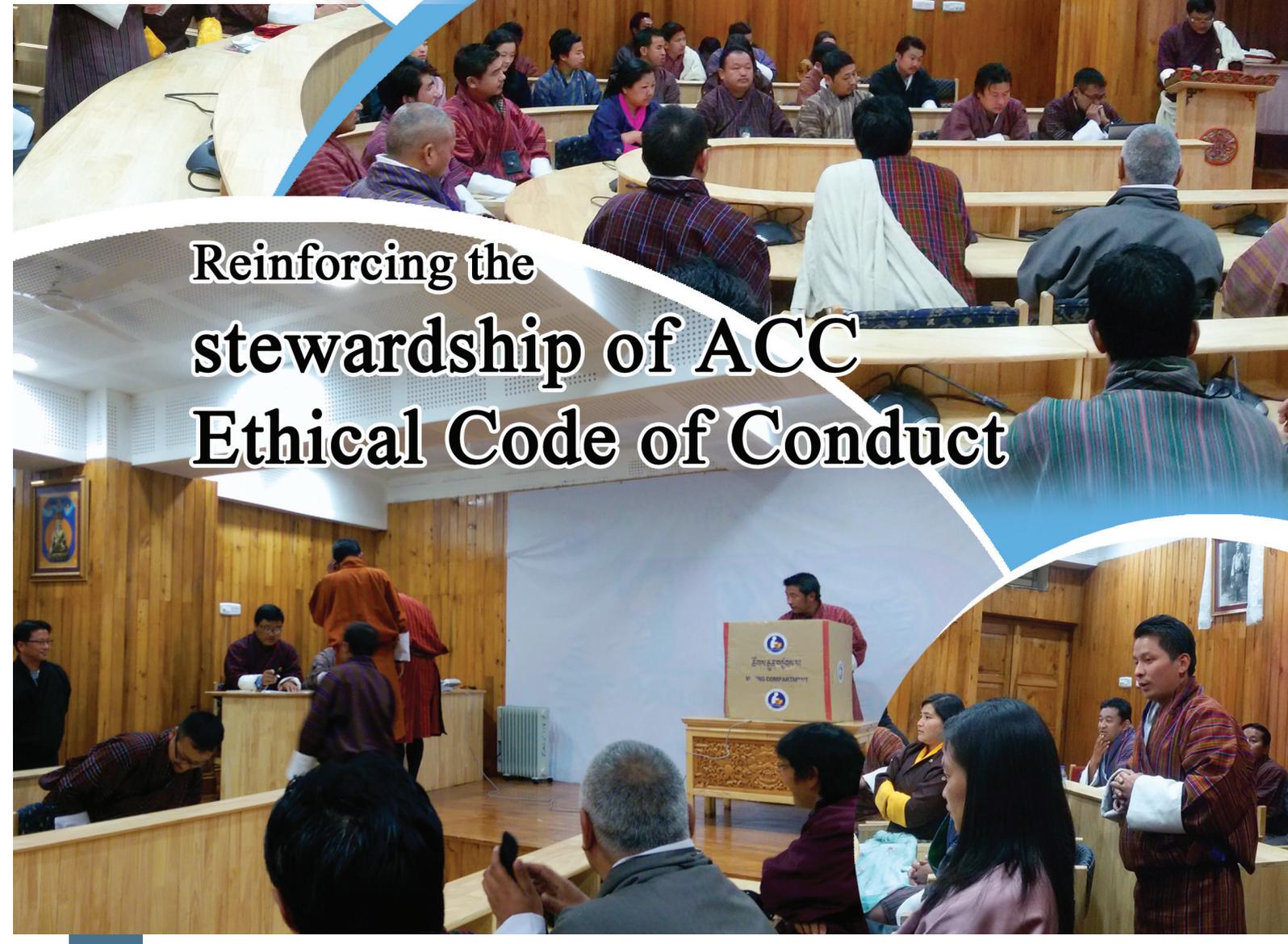


Gyeltshen,
Chief Integrity Promotion Officer
Department B



Kinley Wangmo
Interim AHRO
AFD

Reinforcing the stewardship of ACC Ethical Code of Conduct



for various reasons including non-regularization of the probationers; of those, 31 were officers; 28 people left after one to two years of service; one superannuated in 2011. The attrition rates in 2010 and 2013 were the highest with 16.2 percent, 11

departures annually. Ironically, 2010 was also the year when the Government approved 45 percent and 20 percent to the investigators and other professionals, respectively, in the ACC.

Figure 2.7: Staff appointed and separated: 2006 to January, 2015

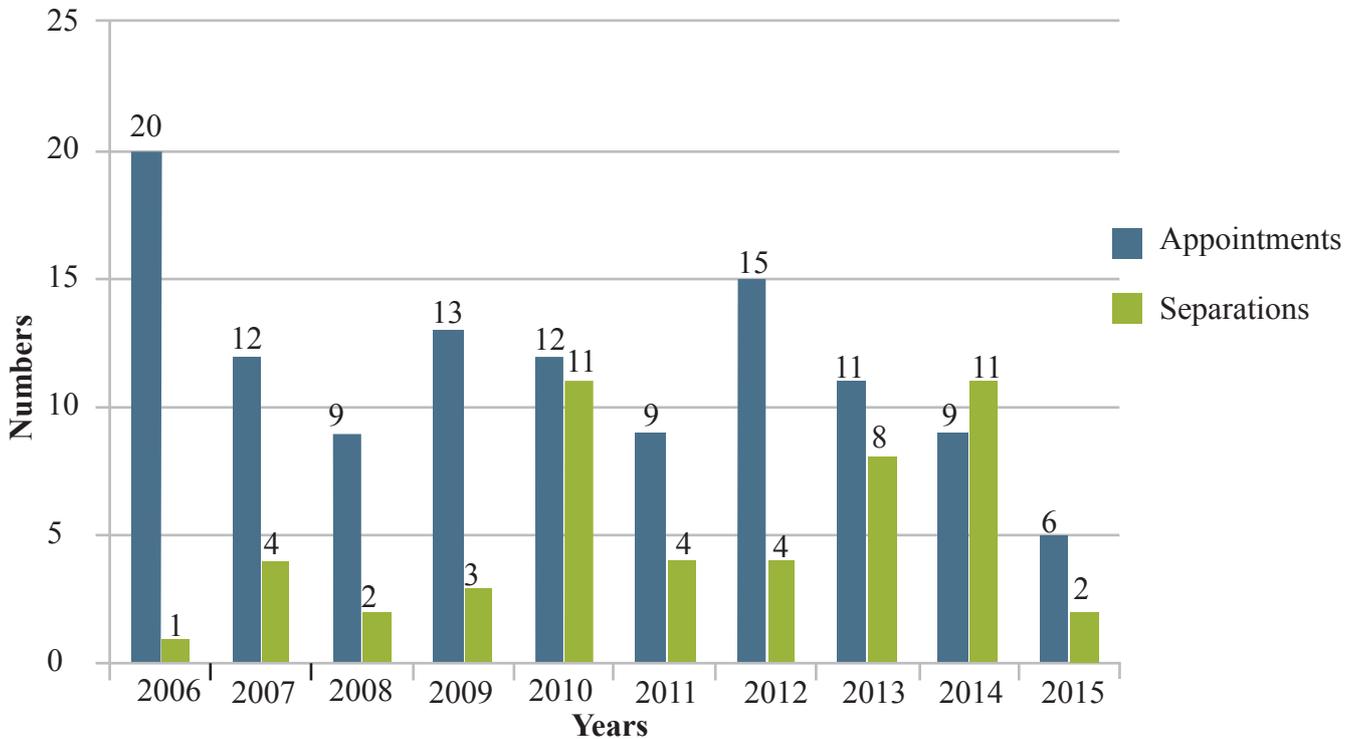
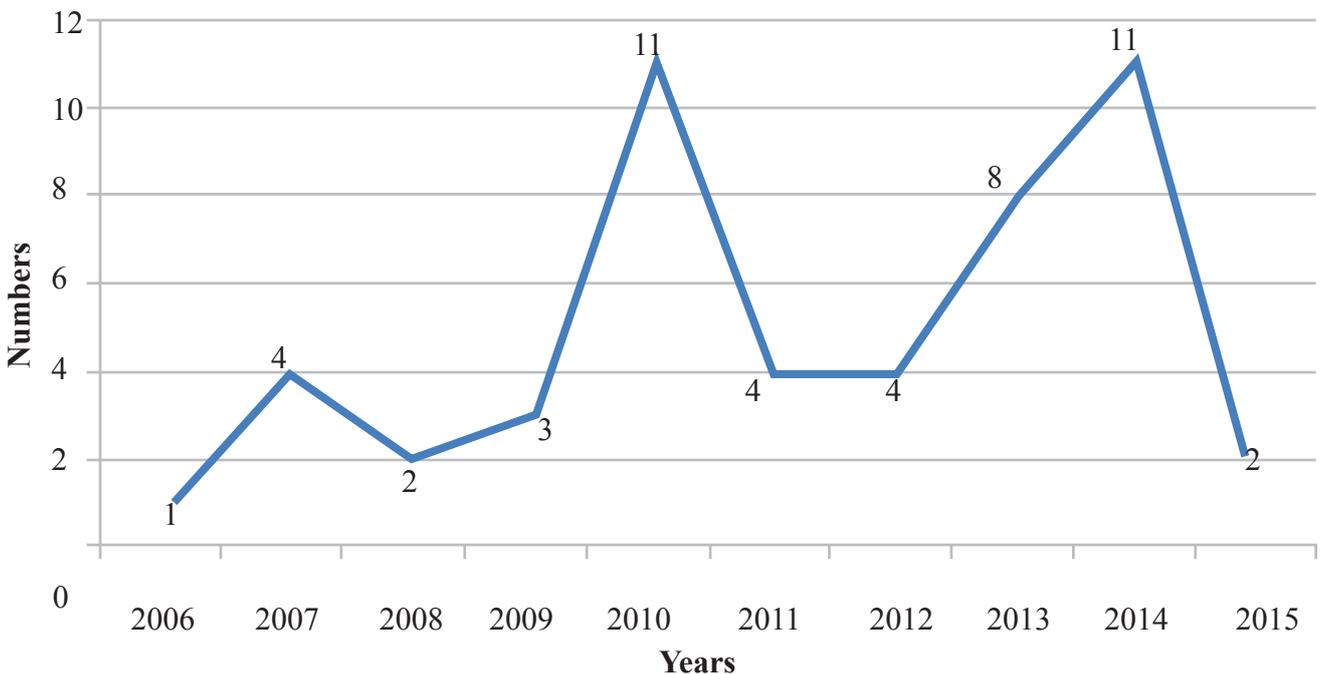


Figure 2.8: Separations



Under the given circumstances, the ACC is under-staffed to be able to execute its functions and fulfill its mandate optimally, which is further aggravated by the general reluctance of public servants and agencies to act against the corrupt and corruption. Based on the staffing pattern, 58 positions (45.3 percent) of the total staff strength are still vacant as of March 2015, particularly the positions in the core function of integrity promotion service; 51 vacant positions are that of integrity promotion officers and related professionals of which 30 positions alone are that of mid-level and senior positions.

The reasons for low recruitment and high attrition rate are manifold. Internally, work overload and performance pressure, demand for high behavioural standards, perceived inequalities, a weakened corporate culture and career opportunities have been mentioned as causes according to the Institutional Development Plan, 2011-2012. Nine years' of existence explains that it is essentially due to the nature of work that is in contrast with social realities, risks involved in a highly connected society that influences the system of governance and sense of insecurity that emanates from there, internal demand for high behavioural and performance standards in a larger environment of complacency and weak accountability, disillusioned by the high level of tolerance for corruption and fatigue from bureaucratic hurdles that seriously impedes productivity.

The acute shortage of human resource has aggravated the burden of work on the existing employees in particular of those bearing managerial responsibilities, thus affecting the overall performance of the institution. Of the 42 integrity promotion and related professionals, 62 percent have less than 5 years of experience, 81 percent less than 7 years of experience (started their career in the ACC) and only 16.7 percent (excluding the Commissioners) have more than 10 years experience. Currently, each manager is responsible to oversee and guide 6 young employees at a time. This is considering the large mid-level vacuum; of the total staff strength, only 13 officers have minimum experience of 10 years. Being spread thinly, the managers are unable to guide and mentor staff vigorously and continuously and yet perform.

The management, however, has not allowed it to be taken ransom by the perennial challenge of staff attraction and attrition in taking hard personnel decisions. Being an enforcement agency, the ACC has always believed in the policy of truly promoting meritocracy, productivity and performance-based personnel management system. Accordingly, the ACC has been conscientious in adhering to the performance management appraisal system with greater focus on having effective and objective assessment of performance and attitude of the probationers. In the process, hard decisions of terminating employees have to be taken in line with the institutional goal of building a cadre with high standards of integrity and professionalism, which has to be ensured during the recruitment. Such HR management practices distinguish the ACC from the other agencies. Since its inception, services of seven, including two drivers, have been terminated.

In order to build a strong foundation to carry out the challenging task of fighting corruption, continuous and conscious efforts are made to build a professional anti-corruption cadre with high level of motivation, integrity and professionalism. To this, providing supportive work environment, social and economic security, opportunities for continuous skills enhancement and attractive pay and allowances become imperative. In 2010, the Government approved 45 and 20 percent as ACC allowances for investigators and non-investigators. As submitted in the last report, a proposal to establish an incentive fund to finance performance and innovation awards, long-term security needs such as housing and current needs like vehicle and scholarships has not materialized. Discussions in the National Assembly indicated the matter in general to be reviewed by the last Pay Commission but nothing came out of it as there was no communications at all. Besides capacity development opportunities and softer organizational management aspects of motivation and ownership, others are beyond the ACC's control or circle of influence.

Human Capital Development

The fight against corruption will continue to remain ever challenging as new and complex forms of corruption emerge that bear greater na-

tional significance, as the corrupt become smarter and seek new alliances, increasing foreign actors and with fast advancing technology affording new opportunities. It requires sustained and proactive effort towards public education and advocacy, minimizing corruption risks through systems improvements and deterring corruption through timely investigation, prosecution and adjudication. This demands higher levels of competencies, intelligence, effective networking and greater preparedness that warrant dynamic and enterprising capacity development programs.

The ACC has made huge investments in building competencies of its staff through short and long-term external trainings; customized in-country trainings by local and international experts; orientation programs and institutionalization of in-house peer learning.

During the reporting period, forty-six members participated in twenty-three various regional and international workshops/seminars/trainings in different fields such as human values and professional ethics, investigation, asset disclosure, ethics and integrity management, strategic anti-corruption management, leadership, corruption studies, surveillance and intelligence, money laundering and terrorist financing typologies. A total of 132 slots were availed for 22 different in-country workshops and trainings conducted in-house and also by other agencies.

Consolidation of 9 Years

As a young institution with a challenging mandate and an anti-corruption drive as a new initiative towards strengthening governance, professional development of its employees and its allies have been a major program for the ACC in its 10th and 11th FYs. In nine years, a total of 887 slots have been used by the ACC staff to attend various trainings/workshops/seminars/conference/attachments in about 249 different occasions, in-country and ex-country. Six members completed masters and diploma (one) program in governance, digital forensics, ICT, public policy, forensic accounting and leadership and HRM (will be completing in May 2015); seven more are undergoing masters program in forensic accounting, financial crime and governance, crimi-

nal justice, engineering, intelligence, Bachelors of Law and information management. Further, 70 members from other agencies also attended 21 ex-country programs in the field of corruption risk management, investigation, institutional integrity management, integrity assessment, public service delivery, universal human values, financial investigation and asset recovery and e-learning program on ethics and integrity.

Chief investigators command course, mandatory course in investigation and human values and universal ethics, certificate course on corruption studies, interrogation techniques, asset disclosure, asset recovery, strategic management of anti-corruption program, ethics and integrity management, intelligence based investigation, institutional integrity management, corruption prevention and risk management and anti-money laundering are some regular courses that the ACC staff have been attending since its inception. Course on universal human values conducted by International Institute of Information Technology Hyderabad, India, is a mandatory course for everyone in the ACC. This course is conducted in Hyderabad, Kanpur and Gaeddu College of Business Studies. Till date 43 (four currently undergoing the course in Gaeddu) have taken the first level of the course; three have taken the second level. CBI, India, MACA, CPIB, Singapore, BIG, Switzerland, ADB-OECD, Australian Federal Police, Hong Kong University, ICAC, Hong Kong, FBI and ACRC, Republic of Korea are some of the institutions that conducted the courses.

Table 2.3 shows the total investment in human capital development of the ACC and its key allies in the last nine years as Nu. 90,332,700.89 (as of March 2015). While bulk of the total fund was utilized to build ACC's in-house capacity, around Nu. 13.2 million was spent on ex-country training of other partners. This has been possible with the generous support from various development partners like the SDC as the major contributor, GoI, DANIDA, UNDP, ADB, FBI, World Bank and ACRC.

On an average, cost per training/conference/workshop (ex-country) was Nu. 5,82,216.00/-

Table 2.3: Investment on Human Resource Development and Capacity Building (2006 – March 2015)

SN	Financial Year	Budget in Nu.	Expenditures in Nu.
1	2006-June 2008	11,120,000.00	7,874,000.00
2	2008- 2009	19,300,000.00	15,846,000.00
3	2009-2010	10,500,000.00	8,570,000.00
4	2010-2011	10,614,000.00	10,542,171.92
5	2011-2012	11,100,000.00	11,100,000.00
6	2012-2013	12,418,000.00	12,235,862.92
7	2013-2014	14,506,000.00	12,272,444.18
8	2014-2015	17,300,000.00	11,892,221.87
Total		106,858,000.00	90,332,700.89

After the trainings, conscious effort is made to share, apply the newly acquired knowledge and skills not only in conducting business but also in developing programs and manuals/guide/regulation/tools. The trainings have not only enhanced individuals' productivity but also played an instrumental part in the overall development of the institution, soft and hard.

Immersion program for the new recruits is a critical component of capacity development. Since inception, it has ensured that every person who joins the ACC undergoes the program. It lays a strong foundation for operation standards and work environment as it acquaints new employees with the institution's mission, vision, core values, ethos, mandate and then their operatives such as policies and programs, laws and guidelines, systemic studies procedure, complaints management system, investigation techniques and report writing, team work and leadership, among others.

Further, experiential learning is a good practice of the ACC whereby all new and young staff members learn by doing with guidance and mentoring (though limited) from the supervisors and the commissioners. In the ACC, everyone knows that the honeymoon period is brief as each individual has to start performing without losing much time; one year's experience in the ACC would easily

translate to five years in many other agencies.

While continuous efforts are being made to invest in building human capital, most of the courses have been availed on an ad-hoc basis in the absence of a strategic human resource development plan. Efforts are being made to strengthen human capital management by developing a competency framework for all skills at all levels to be able to assess personnel and competency gaps, assess aptitude and attitude of individuals to fit into specific specialized area of knowledge and skills, assess training needs and plan training implementations with clear timeframes and succession planning. It will also explore institutionalization of effective and practical training evaluation framework to assess or measure the impact of the programs. This is expected to be addressed with the development of the Human Resource Development and Management Strategy and Policy. However, as submitted in the 2012 and 2013 annual reports, despite this being a top priority, it has not taken off primarily because of the challenge in acquiring good and affordable human resource expert with anti-corruption knowledge. It remains a priority and efforts in materializing it are still on.

Capacity development continues to be a priority in the 11th FYP. Of the total capital outlay of Nu.

125.58 million, Nu. 36 million supported by SDC is for human capital development till June 2016.

ACC Foundation Day, December 31

His Majesty the 4th Druk Gyalpo on 31 December 2005 issued a Royal Decree for the establishment of an Anti-Corruption Commission, in preparation for the parliamentary democracy.

As a step towards rejoicing the success, in whatever little measure and building a motivated and a passionate integrity promotion cadre, the ACC commemorated its first founding day on 31 December 2012, a milestone in its history. His Majesty graced the occasion, a rare honour for the cadre; His wise counsel was a great source of inspiration and pride and reaffirmation of the cadre's relentless pursuits. The integrity promotion cadre also had the honour of receiving the Integrity Badge, which symbolizes ACC's identity and determination, from His Majesty.

In 2013, the Foundation Day was observed outdoors to reinforce team spirit and solidarity and to draw energy from the purity of nature as the cadre continued its arduous journey in a militating environment. Last year, the Day was observed on campus with the hoisting of prayer flags and offering of butter lamps for wisdom in seeking the truth. As reported above, the ACC Employee of the Year Award was also launched on the Day.

December 31 will always be observed as the ACC's Foundation Day, an occasion for celebration, acknowledgement, reflection, redirection and consolidation.

Working in Partnership: Development Assistance

Today, the ACC is generally seen to be an effective institution as evidenced by the surveys on its effectiveness and the progressive trend in the TI CPI ranking. The institution owes its success to, among others, the unconditional and generous support of its developmental partners without which the programs initiated towards achieving its vision and mission would not have been possible.

The goodwill, generous support and the conviction of the development partners in the ACC have contributed substantially towards the young institution finding a firm foothold in the young democracy in a short span of nine years. Guided by its policy of "fewer with greater efficiency", the ACC worked with key development partners, namely the UNDP, GoI, SDC, DANIDA, ACRC, Republic of Korea and the ADB.

Swiss Agency for Development and Cooperation

The ACC receives SDC support through the three year "Democratic Governance Program (DG+)" project (September 2013 to June 2016). The budget has been apportioned as per the expected main outcomes of the "Integrity Component": 52 percent for 'ACC remains a credible and effective institution', 28 percent for 'NIACS 2014-2018 is mainstreamed and implemented' and 20 percent for 'civil society plays an active role in strengthening integrity systems'.

During the reporting year, the ACC provided Nu 6.0 million to the RCSC for (i) strengthening the role of HRO by redefining its terms of reference to include ethics and integrity promotion measures and (ii) development of a separate code of conduct for the executives. As part of the project, the ACC is also working with the Judiciary to conduct a Judicial Integrity Scan, details of which is covered under Section 4: Networking :Building coalition against corruption (Page 72).

DANIDA

The support for "Ethics and Integrity Management in the Parliament and the Judiciary" with a total fund of Nu 5.675 million was closed successfully in July 2014 with the launching of the e-learning course on 21 June 2014. All the 72 parliamentarians and 66 justices/judges have enrolled for the course. As of 31st March, 2015, 10.6 percent of 66 justice/judges, 25.53 percent of 47 NA members and 100 percent of NC members have successfully completed the course.

Consolidation of 9 Years

The UNDP was the ACC's first development partner. DANIDA supported the ACC in its specific initiatives since inception. SDC has been the

ACC's traditional and primary partner, with its generous support covering most of the programs. Table 2.4 shows the details of the development assistance received by the ACC since its establishment in 2006.

Table 2.4: Details of support to the ACC from key development partners, 2006-2015

SN	Development Partner	Name of Project	Amount (Nu. in million)	Project Period	Outcome
1	UNDP	Institutional & Human Capacity Building of the Anti-Corruption Commission (public education&prevention)	4.400	March 2006-February 2007	ACC's institutional development & capacity development in public education & advocacy.
		Institutional and human capacity building of ACC	2.800	January-December 2008	Advocacy on political corruption successfully conducted in collaboration with Triple Gem Media & Infotainment (road shows).
		Support to development of a national anti-corruption strategy	5.600	January 2009- June 2010	Reviewed Anti-Corruption Bill. Consultation & consultancy on/in developing national anti-corruption strategy and general capacity development in the area started. Initial outline of some rules and procedures on complaints' management & investigation also developed.
2	ACRC (then known as Korea Independent Commission against Corruption)	Exchange program for institutional and systems improvement (prevention & public education)	11.300	March 2008 to March 2010.	ACC's & National Statistical Bureau's capacity on NIA built to undertake the survey. 1st NIA conducted in 2009. Corruption Perception Survey conducted in 2007. Complimented UNDP's assistance to work on the national anti-corruption strategy.

SN	Development Partner	Name of Project	Amount (Nu. in million)	Project Period	Outcome
3	ADB	Development and implementation of IDP	15.000	May 2012-December 2012	<p>(i) Designed & introduced IDT. Conducted integrity diagnoses in public sector agencies to strengthen systems and procedures;</p> <p>(ii) trained ACC staff in operations/change management to enhance efficiency;</p> <p>(iii) developed an outline of HR strategic policy for ACC; and</p> <p>(iv) developed media and communication strategy for the ACC. Further work to be carried out in (iii) & (iv). Implementation of the same will require financial & technical support. Dialogue with ADB on the matter to continue.</p>
4	DANIDA	Capacity development in investigation	5.000	September 2006	Operational manual drafted (rudimentary); trained officials of partner agencies.
		Ethics and Integrity Management program in civil service	8.500	July 2011-August 2014	<p>It was an ACC-RCSC-RIM partnership project. Launched e-learning course on ethics and anti-corruption in 2011& partly integrated in HR management system in civil service.</p> <p>RIM's capacity built as the technical & professional support to the RCSC & other programs in future for sustainability.</p> <p>After closure, RCSC & RIM took charge of the program. ACC has withdrawn</p>

SN	Development Partner	Name of Project	Amount (Nu. in million)	Project Period	Outcome
		Ethics and integrity management program in parliament and judiciary	5.675	November 2013 -July 2014	Launched e-learning course on “Ethics and Integrity Management” for parliamentarians and judges. RIM & ACC signed memorandum of understanding with Royal Court of Justice & National Assembly & National Council Secretariats. Status reported on page 47 under DANIDA.
5	Government of The Netherlands	Reducing administrative burden due to regulation	2.079	March 2007 – August 2008	Capacity of ACC & a multi-sectoral team built in analyzing costs of red tape & overregulation (new and old) using SCM (now integrated into RIA). SCM piloted in issuance of driving & trade licenses & building clearance, TCC. Gave Nu. 0.082 m to RSTA for improving customer service.
6	GoI	Construction of ACC’s Secretariat	71.050	July 2008- June 2013	Office facility started operating from August 2012; it is one of the few highly economized building, provides conducive physical working environment. Initial outlay of Nu. 68.050 m increased to Nu.71.050 m.
7	SDC	Enhancement of public service delivery	3.850	March 2007- June 2008	In coordination with stakeholders, ACC worked on developing service standards & public grievance redressal mechanism with technical input from Good Governance Centre, Hyderabad, India. G-2-C & G-2-G are outcomes of this initiative & SCM.

SN	Development Partner	Name of Project	Amount (Nu. in million)	Project Period	Outcome
		Support strengthening of anti-corruption laws; mainstreaming anti-corruption; building citizens' initiative; development of a credible & effective ACC.	116.000	July 2008 – September 2013	<p>Institutional capacity of ACC substantially strengthened to achieve:</p> <p>(i) society widely applies high principles of public life & acts against corruption (long way to go),</p> <p>(ii) anti-corruption effectively mainstreamed in sectoral plans & in public and private institutions (a plan being drafted for latter),</p> <p>(iii) acts of corruption deterred by effective investigation & prosecution without fear & favour (long way to go); &</p> <p>(iv) ACC remains a credible & an effective institution.</p> <p>Project also supported:</p> <p>-Nu. 1.6 million to TCC for on-line application tracking system;</p> <p>-Nu. 5.900 million to MoF for internal audit services improvement; and Nu. 7.050 million for institutional development.</p>
		Democratic Governance Program (DG+)	100.662	September 2013-July 2016	<p>Expected main outcomes are:</p> <p>i. ACC remains a credible & an effective institution;</p> <p>ii. NIACS 2014-2018 is mainstreamed & implemented; &</p> <p>iii. Civil society plays an active role in strengthening integrity systems.</p> <p>ACC as a credible & effective institution, BTI as an active CSO in fighting corruption</p>

					<p>& BIG with technical assistance in asset recovery/mutual legal assistance & lawful interception review & strategic advice to ACC are key drivers of success for this program.</p> <p>Overall budget apportioned as: i. ACC: Nu 73,302,000;& ii. Through SDC (for BTI, JAB & BIG): Nu. 27,360,000. This program is designed to mainstream integrity into governance systems & to strengthen capacity of key institutions by promoting & enhancing their roles.</p> <p>The program is in the 2nd year of its implementation.</p>
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The 10th FYP programs supported by development partners formally closed in August 2013, audited by the RAA and given a clean chit. Fund utilization was 82.4 percent of the total fund received (Nu. 345,225,606.00).

Budget and Expenditures

The ACC, since inception, has received generous budgetary support from the Government and its development partners (Table 2.5)

The primary reason for under spending specially in human resources development is the inability to attract and recruit people, further aggravated by the high attrition rate, stringent control of resources, controlling wastage, adoption austerity measures and the constant drive for value for money.

The ACC has been fortunate that it never faced the problem of inadequate resources due to the generous endowment from the Government and its development partners. 58 percent of the total budget of its 10th FYP was sourced from development partners and the level may be same for the current plan. There is a high dependency on development assistance for its programs. Therefore, sustainability of the ACC’s work in fighting

corruption will be a serious concern when a huge resource gap is created with the withdrawal of development partners from Bhutan, in particular SDC imminently withdrawing after June 2016.

The Government has to explore ways to sustain the momentum of the anti-corruption and integrity promotion drive in the country. More importantly, aggressive efforts have to be made in mainstreaming anti-corruption measures and strengthening integrity promotion strategies in the governance system and resources, not just funds but more importantly time and care, are committed for a systemic approach to fight corruption in the country. Currently, most of the anti-corruption initiatives in the country are funded through the ACC’s budget. As corroborated by the WGI report (1996-2013) which illustrates that governance systems in Bhutan has little or no impact on corruption control (refer Figure 1.2, Section 1). Unless the anti-corruption drive is from within the governance system with leaders leading through personal examples and not only setting the tone of intolerance for corruption and unethical behavior but also demonstrating it through timely, hard and indiscriminate actions. Otherwise, corruption will continue to thrive with serious consequences; any big effort from exter-

Table 2.5: Budget and expenditure from January 2006 to March 2015

Year	Funding source	Compass Causes		Total	Expenditure (Nu. in millions)		Total	Balance (Nu. in millions)
		Budget (Nu. in millions)			Current	Capital		
		Current	Capital					
2006 (Jan.-June)	RGOB	3.018	7.637	10.655	1.715	5.852	7.567	
	UNDP	0.592	0.300	0.892	0.271	0.300	0.571	
	TOTAL	3.610	7.937	11.547	1.986	6.152	8.138	3.409
2006-2007	RGOB	6.887	0.900	7.787	5.271	0.098	5.369	
	UNDP	1.118	0.707	1.825	0.912	0.602	1.514	
	DANIDA		5.000	5.000		2.814	2.814	
	SDC		1.500	1.500		0.017	0.017	
	TOTAL	8.005	8.107	16.112	6.183	3.531	9.714	6.398
2007-2008	RGOB	9.090	2.931	12.021	8.497	1.930	10.427	
	UNDP		4.000	4.000		2.473	2.473	
	DANIDA		2.505	2.505		2.031	2.031	
	SDC		3.850	3.850		3.263	3.263	
	TOTAL	9.090	13.286	22.376	8.497	9.697	18.194	4.182
2008-2009	RGOB	14.136	3.571	17.707	12.670	1.676	14.346	
	UNDP		9.925	9.925		6.716	6.716	
	SCM		0.800	0.800		0.618	0.618	
	SDC		9.500	9.500		8.931	8.931	
	GOI		25.000	25.000		0.806	0.806	
	TOTAL	14.136	48.796	48.796	12.670	18.747	31.417	17.379
2009-2010	RGOB	23.086	0.686	23.772	21.962	0.677	22.639	
	KICAC		4.607	4.607		1.452	1.452	
	SDC	1.200	14.150	15.350	0.955	9.250	10.205	
	GOI		15.831	15.831		8.270	8.270	
	TOTAL	24.286	35.274	59.560	22.917	25.482	48.399	11.161
2010 - 2011	RGOB	26.148	0.600	26.748	22.959	0.177	23.136	
	GOI		32.000	32.00		15.582	15.582	
	SDC	3.075	14.684	17.759	1.627	13.244	14.871	
	TOTAL	29.223	47.284	76.507	24.586	29.003	53.589	22.918

2011 - 2012	RGBOB	26.372	7.350	33.722	26.038	2.473	28.511	
	GOI		25.500	25.500		24.614	24.614	
	SDC	4.979	15.390	20.369	2.708	13.173	15.881	
	DANIDA	1.057	1.000	2.057	0.843	0.148	0.991	
	TOTAL	32.408	49.240	81.648	29.589	40.408	69.997	11.651
2012 - 2013	RGBOB	34.377	0.544	34.921	33.325	0.543	33.868	
	GOI		21.779	21.779		21.779	21.779	
	SDC	2.511	49.682	52.193	2.269	19.640	21.909	
	DANIDA		0.100	0.100		0.011	0.011	
	TOTAL	36.888	72.105	108.993	35.594	41.973	77.567	31.426
2013 - 2014	RGBOB	33.751	5.366	39.117	32.758	5.208	37.966	
	DANIDA		1.050	1.050		0.864	0.864	
	SDC	3.369	77.424	80.793	1.764	63.181	64.945	
	TOTAL	37.120	83.840	120.960	34.522	69.253	103.775	17.185
2014 - 2015 till March 2015	RGBOB	38.149	4.786	42.935	27.849	3.614	31.463	
	DANIDA		2.602	2.602		2.602	2.602	
	SDC	8.146	39.010	47.156	3.739	22.038	25.777	
	TOTAL	46.295	46.398	92.693	31.588	28.254	59.842	32.851

nal stimuli will only create a temporary impact.

Government and the citizenry have to work towards making the ACC redundant or if at all reduce it to a mere watchdog. It is not utopian; it is possible for a small country with enlightened leadership and a country that preaches and practices (though more effort needs to be made) happiness as her ultimate development goal. Values of justice, equity, security, interdependence, harmony, wisdom, etc. underpin happiness, which are also core to the fight against corruption, fundamentally underpinned by the code of conduct and ethics of public servants.

Creating a Conducive Working Space:

ACC Infrastructure and Facilities

Government of India financed the construction of the ACC's office building with an initial out-

lay of Nu. 68.050 million, which increased to Nu.71.050 million on completion of the construction. The construction started in November 2009. The new office started operating from August 2012. The building may be one of the very few that is highly economized yet provides conducive working environment. The shrine room in the attic and the de-stressing facility in the basement (yet to be fully equipped) are expected to provide spiritual and physical respite from the demanding and often stressful situations. The institution is yet to develop a health regime for its staff.

The Government has also allotted the ACC a plot at Phuentsholing. Building a facility there is expected to save substantial financial resources which otherwise has to be spent for accommodation, food and hiring of working space. Resources permitting, design of the facility will be prepared by June 2015. The tall order of aspiring to be the nation's con-

science and leading by example demands the highest level of integrity, professionalism, courage and selflessness from every ACC employee. Unwavering public trust and confidence in the ACC, a critical institution of check and balance, is imperative. This does not happen automatically. The ACC recognizes that statements of vision, mission, values and codes of conduct and ethics are not self implementable. Statements are easy to make and inscribe but truly

internalizing and institutionalizing them in the organizational culture is not easy as it involves human beings and human behaviour. It calls for conscious, continuous and collective effort of the institution; processes that have to be nurtured and necessarily driven from the top. Doing it or not doing it is not a matter of choice for the ACC. Trying to be an island of integrity in a sea of challenges is tough but not impossible.

“Building itself into an incorruptible, credible, effective and a trustworthy institution in fulfilling the vision of ‘Building a happy, harmonious and corruption free society’ has always been one of the most important priorities of the ACC. It is a critical precondition to fighting corruption in the country. At its core lie selfless, loyal and top brass professionals and an organizational culture that nurtures such professionals who earn unwavering public trust and confidence. It is a long way to that goal”.

Section 3

INDEPENDENCE OF ANTI-CORRUPTION COMMISSION: THE FINAL CUE

Expected Limitation Scenario Analyses

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Section 3

INDEPENDENCE OF ANTI-CORRUPTION COMMISSION: THE FINAL CUE

“There shall be an Anti-Corruption Commission ,..., which shall be an independent authority”, states Article 27, Section 1 of the Constitution of the Kingdom of Bhutan. It is a unique and an exemplary provision that does not feature in any constitution of other countries, describes the Chairman of the Constitution Drafting Committee in his book, titled, “The Constitution of Bhutan: Principles and Philosophies”. He goes on to explain, “This section (Section 1) establishes an independent Anti-Corruption Commission headed by a Chairperson comprising of two (three) members. Similar to other constitutional bodies, the Anti-Corruption Commission is an independent body shielded from political or insulated from other influences. This independence is the sine qua non to discharge its duty without fear or favour as subordination is servitude. The Commission has full authority to act against all forms of corruption. This provision empowers the Commission to take necessary steps to prevent and combat corruption. It is a great power with great responsibility that requires protection and support of the Constitution to function independently”.

The provision is significant because of the critical mandate entrusted to the ACC. Paradoxically, despite the constitutional guarantee and its explanation; it is an issue that the ACC has to pursue resolutely with the legislature and other authorities. Since 2007, the ACC has been presenting the case persuasively in its annual reports to the Parliament because it detrimentally impinges on its performance. An independent section, titled, “Operational Challenge of ACC’s Independence” was part of the 2010 Annual Report, presenting the arguments on the Government’s positions including international good practices and the countervailing checks and balance. 2012 and 2013 Annual Reports further built on the case; latter also covered findings of the review on the case undertaken by an expert team from BIG, titled, “Study on Measures to Safeguard the Constitutional Role of the Anti-Corruption Com-

mission of Bhutan”.

The National Assembly, through resolution 6.4 of 12 September 2013, directed its Legislative Committee to review the Constitution and other relevant laws and to report back in relation to providing absolute independence over human resource administration to the ACC to enable it to fulfil its mandate and duties effectively. The ACC as directed, engaged the GGC (not Legislative Committee; reportedly, as there was an internal understanding between the two committees) of the National Assembly on the human resource issues. In January 2014, the GGC submitted its report with a seven-point recommendation to the National Assembly. Through resolution 11.1 of 12 February 2014, the National Assembly directed the ACC and RCSC to mutually resolve the human resource issues.

The ACC initiated dialogue with the RCSC. A MoU to be signed between the two institutions has been drafted and is being reviewed. It will not only include human resource issues but other areas of collaboration. However, both the RCSC and the ACC recognize that this is only an interim measure. The fundamental underpinning is the interpretation of the constitutional provision of “independent authority”, which the GGC also recommended in its report. A letter to that effect has been submitted to the Speaker (annexure).

Temporary solutions and arguments such as “if we give independence to you, others will clamour for the same, a small system cannot afford multiple independent systems, etc.” and selective fear of Constitution being violated are irrelevant because it is not about giving independence to the ACC as it is already guaranteed by the Constitution; besides when it suited the authorities these very reasons were flouted. More importantly, it is about understanding the legislative intent, which the Chairman of the Drafting Committee amply explains in his book and operationalizing it.

Nation's Conscience



**Building an edifice of
Incorruptibility, Credibility & Effectiveness**

ACC



Some quarters interpret independence as functional independence, which is further understood as non-interference in the day to day functioning of the ACC. Rationally, functional independence is contingent upon legal, administrative and financial independence. Without control over resources, such as authority to determine, personnel and finances, functional independence has no meaning at all; it is like giving a pair of goggles to a visually challenged person.

There was also a time when opinion was rife (may be it still is) that other than the commissioners, the ACC secretariat need not be independent (ref: Annual Report 2010). Further, recent developments in the National Assembly related to independence of constitutional bodies are not encouraging. A bill is in the Parliament, which seeks to repeal the provision on the need for members or commissioners of the constitutional bodies to resign from the civil service when they are appointed to the post. Such an amendment is seen as contrary to the principle of independence, as it will undermine the decisions and the decision-making process of independent constitutional bodies. In such a situation, independence of the institution in reality will be in the form of a lone person, the chairperson. Trying to address a current dilemma through an amendment of a law may undermine long-term interests.

The three member Commission's decisions have

to be consensus or majority based and such decisions may prolong over a long time. Taking difficult decisions on people who control the incumbents as civil servants may be compromised. Conflicts of interests situation may arise quite often, raising doubts on such decisions. Such concerns had been expressed by the ACC, ECB and the RAA in a consultative meeting convened between the constitutional offices and the Legislative Committee of the National Assembly on 17 November, 2014, organized by the latter. The issue was also discussed on 11 March 2015 in a meeting convened by the Legislative Committee of the National Council with the ACC and RCSC. The ACC's primary source of strength is the harmony of body, speech and mind of the 3 members in the Commission that is underpinned by unshakeable trust, shared vision, public interest, principles of rule of law, tenacity of purpose and result and not the least of all selflessness. When this harmony is undermined, the institution of check and balance will be crippled.

As also submitted in the past, preventive mandate of the ACC is administrative in nature. Combating mandate is criminal in nature and involves detection, investigation and prosecution of corruption cases. While independence is not imperative in fulfilling the preventive mandate, it is a crucial prerequisite in fulfilling the criminal mandate. If independence is restrained, effectiveness of ACC will be compromised in fulfilling the dual man-

Figure 3.1: Making ACC a toothless tiger (Courtesy: TI, Bangladesh, November 2013)



date. The dual mandate, as two sides of the same coin, must be fulfilled in an integrated manner for combined effectiveness.

Expected Limitation Scenario Analyses

There is a possibility for inducing an unhealthy environment of internal weakness in the functioning of the ACC due to issues arising out of independence. In its functioning, the ACC may take the path of least resistance. Administrative mandate may overtake the criminal one, compelled by tribulations of criminal investigations and associated imminent reprisals. Issues arising out of independence will affect the high-profile cases more because no one really bothers when “little fishes” are in trouble. When big and powerful people are under criminal investigation, influence in all forms may be exerted until such people would be off the hook. This inequity in carrying out its mandate will prey upon the conscience of people working in the ACC. Lethargy and indifference will set in, undermining effectiveness of a constitutional body established to prevent and combat corruption.

Influence of external forces will incapacitate the ACC. Authority to take final decisions on human and financial resources to run ACC effectively lies outside. Effective functioning of the ACC may be strangled by control of such resources from outside. Under such a scenario, success of the ACC may become its own enemy. Its functioning may be clamped in many ways: restricting long term organizational development; transferring and threatening (directly and indirectly) effective investigators; curtailing finances on various pretexts and denying crucial capacity development needs. These external strings may be pulled in subtle ways to reduce ACC to a toothless tiger. These are not hypotheses but reality that fraught anti-corruption agencies world over and Bhutan certainly is no exception. It is just a matter of time.

Under dual or vague control structure, organizations are inhibited to perform and excel. Such organizations resort to management on a ‘day-to-day’ horizon or ‘business as usual’ pattern. Without long-term plans and strategies, targets

and milestones will not be set. Under such a management system, hard decisions will not be taken, leading to decision paralysis. Stalemate situations and finger pointing will start, especially in high profile cases. Such situations will further perpetuate the perception of ‘two rules in one country’, deepen public distrust in the Government and lose confidence in the institution of check and balance institutions. Corruption fighting or good governance infrastructures will collapse. General public will become helpless and apathetic and cynicism will further deepen.

Conclusion

Such a bleak scenario is not an option for Bhutan at all. If the Government and the citizens recognize corruption as a potential risk for Bhutan and are truly sincere about fighting it unconditionally and indiscriminately, the calling now is of decisiveness and tough actions. The spirit of His Majesty’s statement, “I will not be corrupt and I will not tolerate corruption in others. Corruption is unambiguous- there is no great or small corruption. And no one can be above the law”, Government’s policy of “Zero Tolerance for Corruption” and the Prime Minister’s gift to His Majesty “To eliminate corruption” must be palpable and demonstratively visible in the leaders’ behaviour, their organizational culture, larger governance culture, in families and communities.

As submitted in the last report, the ACC is duty-bound to report its experiences on problems and issues faced over the years in fighting corruption. The Commission believes that it would be a gross failure on its part if its experiences and views on independence are not shared with the people of Bhutan. The reasons for sharing its views and experiences are solely of public interests. Finally, in the Commission’s considered view, independence is most crucial in combating corruption in the country in keeping with its criminal investigative mandate of detection, investigation and prosecution for maximum deterrence.

At the end, if the anti-corruption movement is driven consciously and sustainably from within the governance system by leaders at all levels and of all institutions, public and private including the

citizenry, the ACC will be superfluous, which is its ultimate goal. Until such time, ACC as the primary anti-corruption driver has to be strong and effective for which independence is an important precondition that has to be ascertained by the Government, as provisioned in the Constitution.

An issue of paramount significance is that the institutions of governance and the citizens have to note is that the ACC till date, has not allowed itself to be influenced by anyone or anything under any circumstance, whatsoever; there has neither been any attempt from anyone to influence the ACC. In it lies the wisdom of the leaders. Most of its counterparts around the world are rendered ineffective for various obvious reasons, including lack of political will of the agencies themselves; they are highly politicized. These institutions are abused for political vendetta. However, the institutions of governance, citizens and the ACC itself cannot be naïve to think that Bhutan is unique and that the ACC will always be insulated and can in-

surate itself from any influence. It is vulnerable and will always continue to be so. The challenges in Section 7 amply demonstrate it. Potential risks, internal and external are there and cannot be dismissed without discussing and addressing them continuously. Influence can be legitimized in the form of government instructions, judiciary's writ and parliamentary resolutions. This has not been the case now because of the internal processes that the Commission unconditionally complies with; it is also the spirit of mutual understanding and accommodation between the institutions and the ACC that provides the space for dialogue within the confines of public good and professional reasonableness without undermining each other's independence.

As submitted in the past, the ACC cannot be subjected to the vagaries of personalities, entities and political environment. What is guaranteed by the Constitution has to be operationalized.

“The Anti-Corruption Commission is an independent body shielded from political or insulated from other influences. This independence is the sine qua non to discharge its duty without fear or favour as subordination is servitude. The Commission has full authority to act against all forms of corruption. This provision empowers the Commission to take necessary steps to prevent and combat corruption. It is a great power with great responsibility that requires protection and support of the Constitution to function independently”

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Section 4

PREVENTION OF CORRUPTION: FIGHTING CORRUPTION COLLECTIVELY AT THE SYSTEMS LEVEL

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Section 4

PREVENTION OF CORRUPTION: FIGHTING CORRUPTION COLLECTIVELY AT THE SYSTEMS LEVEL

In the 1980s, His Majesty the 4th Druk Gyalpo commanded the Planning Commission and the RCSC that, *“We should find ways of improving the per capita income from the internal resources to achieve the objective of self-reliance... The number of modern civil servants working for their private interests in contravention of Royal Civil Service Commission rules are increasing yearly. Therefore, it is decreed that you should review the sections of the Bhutan Civil Service Rules, which prohibit such acts and amend them if necessary. You know the objective of making our domestic revenue sufficient to meet the overall administrative expenses and a decree of reminder was passed last year before the beginning of the seventh plan. However, there has been a shortage of Nu. 240 million within six months of the first year of the seventh plan and loans amounting to Indian currency of Rs 1,420 million and US\$93,234 has to be repaid. I was worried for this reason and it was decreed in the meeting of ministers and officials in the Ministry of Planning that you should control the wastage of government property. It was further decreed that you should promote the outputs of our civil servants and concentrate on the programmes necessary for the common people. The civil servants who did not serve with their utmost capability and with interest in their responsibility deserve to be terminated”*.

The Commands bear resonating relevance ever more so now with an obese civil service that is lacklustre and lethargic and highly prone to corruption, with a pervasive public perception of politicians/parliamentarians being preoccupied with self-service while in office, narrow and short-term political agenda taking precedence over larger national interests and with the growing indebtedness of the country (although policy makers find comfort reportedly in its temporariness).

Nowadays, one of the first things that a young

civil servant generally learns is not about the code of conduct and ethics or how best s/he can excel in her/his performance and serve her/his clients well but how to fake bills and forge documents, delay services as this is the culture which thrives because of weak oversight, absence of due diligence measures, tolerance for inefficiency and unethical behaviour and weak accountability, despite systems being in place. Recent cases of false claims made to the ACC by young human resource officers (one is a probationer who is barely two months old in service), who are supposed to promote integrity in their agencies testify it. “Everybody does it, why not you” is the message that young employees receive. The pursuit to make fast money blurs the sense of right and wrong, made worse by the absence of proper guidance and counseling by the supervisors and heads of agencies. Every investigation that the ACC conducts reconfirms the same weaknesses, whether related to procurement, issuance of licenses, property transfers, banking services, customs and tax administration, building clearances, personnel and other resources management, etc. Problems continue to recur in the very institutions that have been investigated.

The immigration case that revealed a deeper web of operations involving banking services, licensing, taxi services, police, “export and import” of zero tax commodities, vegetables vendors, customs and duties, tax, etc. also exemplifies failures of internal governance system of agencies, lack of discipline and due diligence, lack of coordination among agencies, oversight failures of external bodies such as the RMA that the RAA Report AIN 12431, September 2014 also highlighted, etc. When the country was facing severe rupee crises, citizens had no hesitation in making fast money by helping expatriates repatriate huge INR from some banks, seriously depleting the limited INR reserve that was being replenished with external borrowings. In two instances alone, Rs. 170 million was repatriated; it is just the tip of the iceberg; a driver’s family alone with four

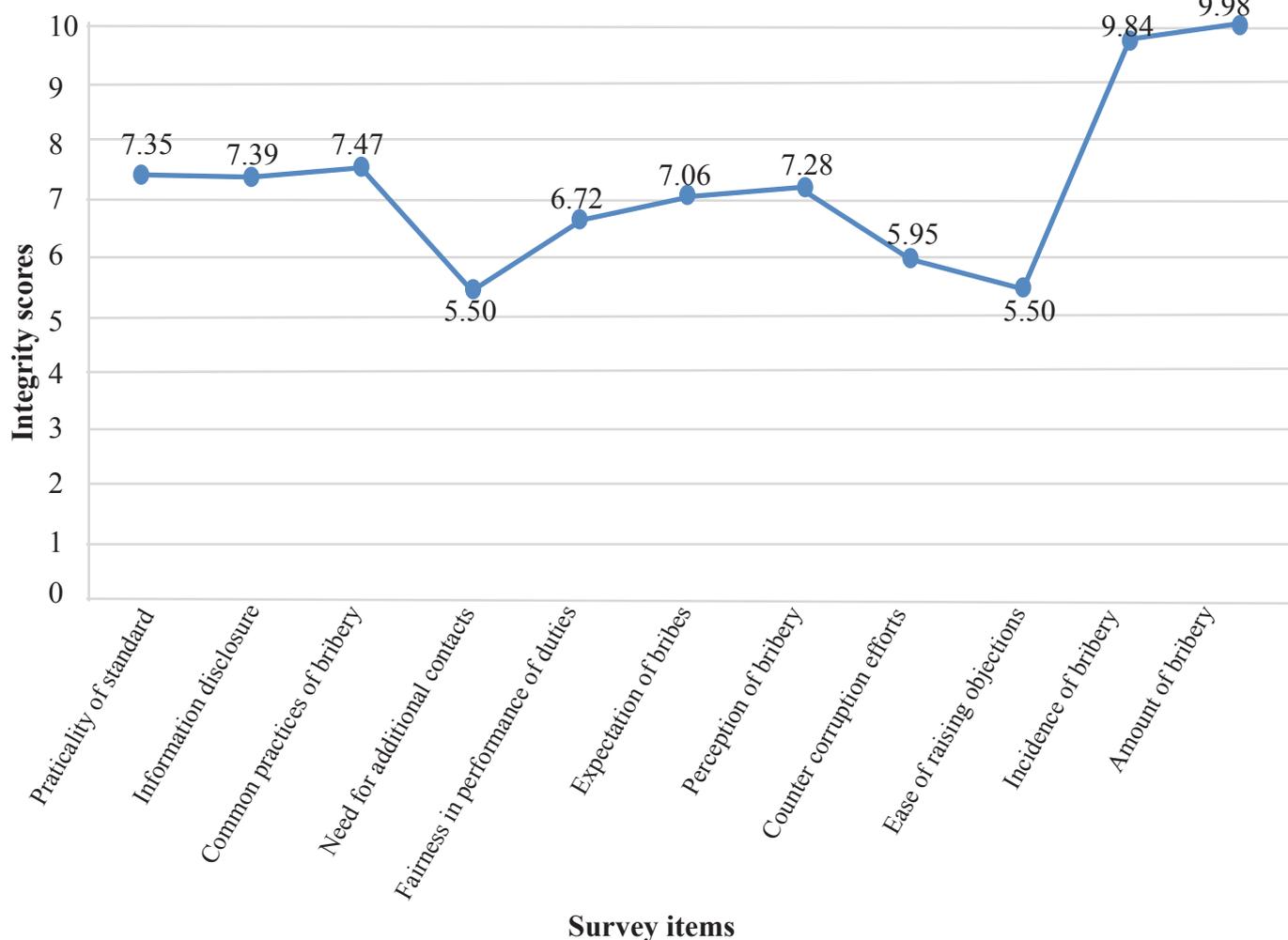
- 1 **Risk Identification**
What risks threaten the agency?
- 2 **Risk Assessment**
Scoring risks- impacts & frequency
- 3 **Select Major risks**
Risks with higher scores for mitigation
- 4 **Cause Analysis**
Finding causes
- 5 **Strategic solution**
Respond with a strategic solution
- 6 **Choosing & implementing a course of action**
Feasible plans
- 7 **Monitoring the implementation of action plans**
Compliance



Institutionalizing Ethics & Integrity in governance system



18.45
CHAR

Figure 4.1: Overview of integrity scores with survey items (NIA 2009)

licenses account for Rs. 50 million.

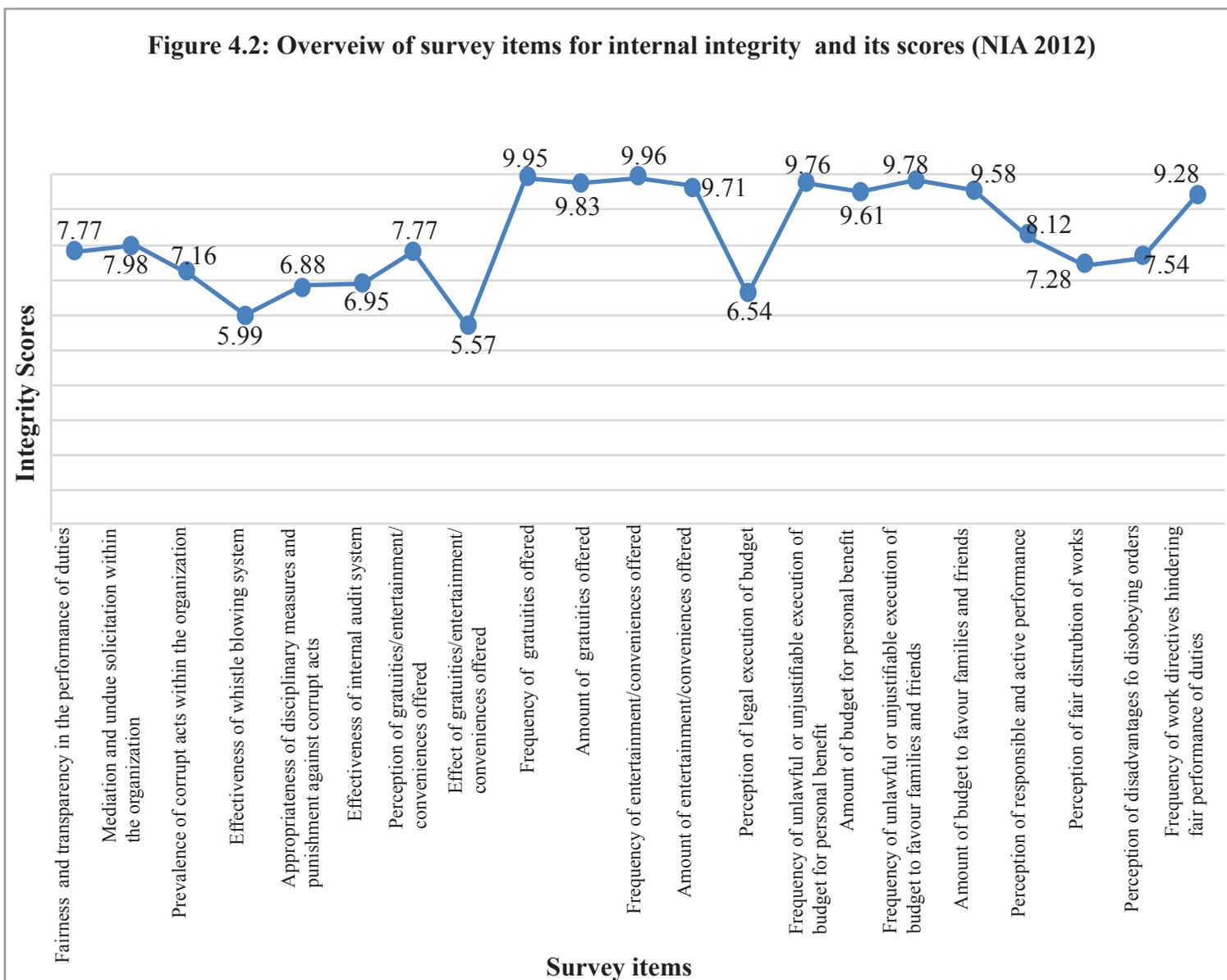
Further, “need for additional contacts”, “counter corruption efforts” and “ease of raising objections” of the 2009 NIA (refer Figure 4.1) and “effectiveness of whistle blowing system”, “effect of gratuities/entertainment/conveniences offer” of the 2012 NIA (refer Figure 4.2) bearing lower integrity scores than other factors highlight weaknesses in the systems and the risks of corruption. The score of 57.4 and 64.5 in the World Bank’s “ease of doing business” and “ease of dealing with service providers” (Doing Business 2015) and globally, 65 percent of the respondents considering it important to have personal contacts in organizations (source: GCB 2013) also corroborate with the NIA findings .

The national integrity surveys also reveal the vulnerability of public service to bribery and its manifestations. During the 2012 NIA survey, only

29 out of 6969 respondents (service users) admitted of having paid bribe or offered some form of gratification to the service providers (reluctance to speak up is an inherent challenge of corruption related surveys). When asked why they paid bribes, offered entertainment or other gratifications to service providers, 38 percent said, “*To speed up the process*”, 31 percent said, “*As an appreciation of the service*” and 28 percent said, “*As a customary practice or courtesy.*” Most of them paid either before or during the processing of a work (35 percent each) and 21 percent paid after the processing. Although the number is small, it is important to take cognizance of the culture in the public service that is highly prone to corruption and this has to change.

As illustrated above, weak systems, weak management of strong systems and corruption risks have to be addressed comprehensively and proactively at people, infrastructure and implemen-

Figure 4.2: Overview of survey items for internal integrity and its scores (NIA 2012)



tation levels, placing thrust on ethical leadership, staff integrity and systems integrity. Prevention is an important priority of the ACC as it directly impacts on the complaints and on the investigation. Admittedly, it is more challenging than investigation as it depends on the conviction and the will of the leaders of institutions and agencies where prevention measures have to be mainstreamed in their internal governance systems, which in turn is contingent upon the demand by the leaders of the oversight bodies and citizens for them to perform and deliver. Otherwise, any corruption prevention effort remains a travesty of some action as desired by the ACC.

This section presents multi-pronged approaches to prevent corruption in the spirit of collaboration and partnership with multifaceted stake-

holders, public and private. Impact of prevention of corruption can neither be felt nor sustained if driven externally, perforce. It has to be carefully planned, nurtured, owned and internalized. NIACS 2014-2018 is a comprehensive effort towards that; it is a platform for fostering concerted effort in mainstreaming integrity promotion and corruption prevention measures.

The Prime Minister formally launched NIACS on 23 June 2014 in Thimphu, attended by over 156 participants from the three branches of the Government, constitutional bodies, armed forces, corporate entities, political parties, media and CSOs. The Government has adopted it. It provides a common platform for sustainable preventive measures against corruption. It has four strategic objectives, namely, (i) ensure political



“towards achieving the goals of eleventh five year plan”

I M Mainstreaming **A** Integrity and **Anti-corruption measures**

Political Will
Cooperation and
Partnership
Awareness and
Integrity

Education
Corruption Risk
Assessment
Institutional
Capacity
Legal and
Regulatory
Framework

will and promote ethical leadership and integrity; (ii) inculcate ethical behavior through education and awareness programs; (iii) promote cooperation and partnership for a collective alliance against corruption; and (iv) strengthen systems to prevent and combat corruption. The four overarching strategic objectives are translated into programs and activities for the agencies to adopt and implement.

For the first time ever, fight against corruption has been integrated into the planning process. “*Corruption Reduced*” is a 11th FYP’s NKRA that will be measured by SKRA and Dzongkhag KRA. The corresponding KPIs are “*improved corruption perception index (TI CPI ranking)*” and “*number of agencies reporting on implementation of NIACS*”. Its implementation has been integrated into the 11th FYP’s Reporting Framework of the GNHC but its details have to be worked out. KPI of “*NIACS implemented*” will track the outputs by agencies. All budgetary agencies that report to GNHC will implement NIACS and report the status through the existing PlaMS. Others will report their NIACS implementation progress to the ACC. In essence, it is an effort towards mainstreaming NIACS into the larger system of governance. Further, NIACS has also been integrated into the Annual Performance Agreements of the GPMS, managed by a designated team in the Prime Minister’s Office.

Prevention programs and activities have been organized under each strategic objective of NIACS.

Strategic Objective 1: Ensure Political Will and Promote Ethical Leadership and Integrity

Political will and exemplary leadership are the most critical capital in successfully preventing and combating corruption, as guided by the Government’s anti-corruption policy of “Zero Tolerance for Corruption”. NACS 2009 and NIACS 2014-2018 were prepared to facilitate the government of the day in operationalizing its intolerant anti-corruption policy and to demonstrate its political will through its implementation.

NACS 2009

The implementation of NACS achieved some modest results, particularly in putting a strong legal and regulatory framework and building capacity of key accountability institutions, notably the ACC and its partners from the judiciary and law enforcement agencies. It introduced important new corruption prevention tools, such as the Model Code of Conduct and Ethics, asset declaration and SCM. Furthermore, systems and institutional capacity were reviewed and strengthened e.g. the procurement system. Awareness of corruption risks also helped create useful partnership programs. However, despite these modest achievements, NACS lacked ownership and commitment from agencies and conscious efforts in monitoring it by the oversight bodies including the ACC. There was no clear monitoring and evaluation mechanism. There was also a general lack of communication from the ACC. Not many stakeholders were aware or familiar with NACS.

Therefore, the ACC with technical support from BIG, Switzerland and RIM reviewed NACS in 2013. The review reconfirmed lack of ownership, absence of communication strategy, lack of effective monitoring mechanism and perception of NACS as the ACC’s mandate. As a result, NIACS 2014-2018 was prepared as a follow-up strategy.

NIACS 2014 – 2018

During the reporting year, the ACC conducted series of activities to sensitize public servants on the NIACS and to facilitate its implementation. They were:

- Consultation meetings on the implementation of NIACS with thirty four agencies, namely ten ministries, twenty dzongkhags, four thromdes involving 1277 officials (most led by their ministers and secretaries) from August 18 to September 10, 2014;
- NIACS was presented to the dzongdags during their 21st Annual Conference in August 2014;
- As a follow-up to the consultative sessions, four workshops on managing conflict of interest were conducted from 13-16 January 2015 in Thimphu for the parliamentarians, judges,

- civil servants and corporate & private sector employees; it was facilitated by an international expert. A total of 120 participants from fifty-two agencies attended the workshops. A general guideline for managing CoI in public service will be developed;
- Advocacy program on social accountability tools were carried out in sixty nine gewogs of six dzongkhags, namely, Lhuntse, Mongar, Tashigang, Trashiyangtse, Paro and Samdrup Jongkhar (unlike others, sensitization in Samdrup Jongkhar was conducted at one location) as of March 2015. The program is a joint collaboration between the ACC, DLG, RIM and BTI;
 - NIACS sensitization for BDBL employees, thirty women participants of Labshey Nyenshey program aspiring to contest in the 2016 local government elections and thirty five taekwondo coaches were conducted;
 - In-dialogue sessions with three hydropower projects, namely Dagachhu Hydropower Corporation Ltd., Mangdechhu & Punatshangchhu (I & II) Hydropower Project Authorities were held in December 2014; and
 - As a follow-up to NIACS implementation session with the dzongkhags and the resolution of the 21st Annual Dzongdag Conference, the ACC conducted basic investigation skills training for sixty seven dzongkhag officials from 16-24 March 2015.

A clear oversight and monitoring mechanism is essential to ensure effective implementation of NIACS in the institutions and agencies. A preliminary discussion between the ACC, GNHC and Cabinet Secretariat highlighted the need to redefine national level KPIs; TI CPI ranking and number of agencies reporting on NIACS implementation were considered as vague. Further, KPIs for NIACS implementation i.e. “number of complaints against an agency lodged with the ACC” and “RAA observations” defined in the first Annual Performance Agreements that the Prime Minister signed with ministers, dzongdags (Governors) and heads of autonomous agencies have now been redefined. “Gift register instituted”, “timely filing of AD by the executives” and “executives having conducted integrity diagnosis in their agencies” are the new indicators in the second Annual Performance Agreements,

which have already been signed (with thirty-six agencies). In order to ensure successful implementation of NIACS, a multi-sectoral meeting will be convened in May 2015 to draw clear and concrete KPIs; will also engage the GPMS unit in the Prime Minister’s Office. Similar sessions will also be planned for the legislature, judiciary, constitutional bodies and corporate entities within 2015.

The status of NIACS implementation by the institutions and agencies will be submitted in the subsequent annual report.

Strategic Objective 2: Inculcate Ethical Behaviour through Education and Awareness Programs

Corruption is intrinsically about degeneration of value systems. The ultimate anti-corruption measure is behavioural change of citizens and public servants upholding the highest level of integrity and are intolerant to corrupt behaviour. It is a long-term measure that calls for a fundamental change in mindset and culture. The ACC has undertaken numerous initiatives to raise public awareness on the social ill and its costs to the nation, on focused issues such as procurement through interactive sessions, gewog advocacy programs, youth engagement, behavioral change program, and commemoration of important events such as the IACD. Creating an informed and an awakened citizenry has always be a priority for the ACC.

Interactive Sessions

The presentation under each heading covers the activities undertaken during the reporting period and also in the last nine years (consolidated).

21st Annual Dzongdag’s Conference

After a gap of nearly seven years, the ACC interacted with the dzongdags during their 21st Annual Conference to sensitize them on ethical leadership, systems and staff integrity. As discussed in the foregoing paragraphs, corruption occurs because of systems deficiency including

weak management and lack of standard operating protocols, which breeds laxity in exercising supervisory and oversight functions. Dzongdags as leaders of local government, having the first hand knowledge of people and their lives have a great opportunity to build a strong system of governance that responds to people's aspirations and through it in building a strong nation.

Session on Procurement and Contract Administration

Procurement is a specialized subject and requires sound knowledge and skills. It is highly vulnerable to corruption and fraud simply because of the sheer size of resources that it manages. Hence, it continues to be fraught with avoidable problems. A day's session on "Public Procurement and Contract Administration" was conducted for fifty civil servants of Dagana dzongkhag Administration and twenty-three employees of BDBL on two separate occasions. The participants were educated on the principle and process of public procurement with emphasis to secure "value for money" in procurement of works, goods and services.

Over 1350 procurement officers, corporate employees, dzongkhag staff and contractors have been trained/sensitized on procurement and related issues over the last nine years.

Bhutan Taekwondo Federation

Sports is believed to not only develop an individual's physical and mental strength but also build her/his ethical and moral character. The ACC has not been able to exploit this medium. With the aspiration of teachers providing the multiplier effect, thirty-five taekwondo coaches were engaged in understanding their critical role in imparting values of integrity to their students through sports – learning as they enjoy the sports as part of the Olympic Solidarity program.

National Graduate Orientation Program (NGOP) 2014

Interaction with graduates, social human capital, is an annual event, to which the ACC attaches great importance. At the brink of a new life, graduates nurse hopes, aspirations and misgivings. Graduates are talented and can be instrumental in bringing about positive change in the governance system and in the larger society. They have to be guided to have the right understanding of important facts, such as trust, integrity and corruption. Being trustworthy and upholding integrity before they start demanding others to be so was the basis for engaging the 2205 graduates last year.

Till date, over 11086 graduates have been engaged in the last six NGOPs.

RIM Postgraduate Diploma Students

In an effort towards building greater insight of the students' into good governance and development programs through a talk on "Corruption and Democracy in Bhutan", the ACC engaged 117 postgraduate diploma students in Public Administration, National Law and Financial Management at the RIM. They, as future incorruptible democratic leaders, were reminded of what they owed to the country and their sacred responsibilities in building a strong system of governance. Till date, the ACC has engaged over 205 graduates at RIM.

17th Annual Education Conference

Recognizing education as a strategy towards nation building, the ACC seized the opportunity to interact with 167 educationists of the country during the reporting period. The significance and impact of education in building a society, the character of citizens could not be emphasized more. The session also highlighted the associated risks of corruption in the education sector with rich resource endowment for the reforms.

Cultivating Ethics and Integrity in Human Resources Management

A human resource officer by virtue of being the custodian of the civil service code of conduct and ethics holds the ethical compass of her/his organization; s/he also helps the management define the organizational culture. The ACC interacted with sixteen postgraduate diploma holders in Public Administration, appointed as assistant human resource officers in various agencies and dzongkhags. They were briefed on the fundamental principles of ethics and integrity, corruption and anti-fraud model and integrity triangle and the important role that HROs played in promoting and managing ethics, transparency and accountability, code of conduct and due diligence. The ACC has engaged over a hundred HROs, till date.

Students and Teachers

During the induction program for engineering recruits, organized by MoWHS, the ACC interacted with thirty civil engineers from JNP to be deployed in various dzongkhags and gewogs for gewog connectivity. Engineering is one of the professions that is highly prone to corruption and fraud, which has direct and huge impact on the economy and the lives of people. Till date, over 300 engineers have been engaged on various aspects of their work including red flags.

Interactive sessions were also organized with the students and teachers of six schools, namely, Jigme Losel Primary School, Jakar HSS, Zhemgang HSS, Pemagatshel MSS and Nangkhon HSS, Bjoshong HSS, Gasa and lecturers of Samtse College of Education during the reporting period. Teachers and students are ACC's regular and critical partners, as subjects of influence and vehicles of change. Till date, the ACC has interacted with over 21,000 teachers and students from over forty five schools and colleges in the country.

Desuungs (Guardians of Peace)

Desuungs are foot soldiers of His Majesty's aspirations for Bhutan and the Bhutanese; role mod-

els for fellow citizens. Their Honour Code and values define their selfless and supreme duty to the King, country and people. Hence, Desuungs are expected to be honourable, impeccable in character, incorruptible and absolutely intolerant to corruption, living up to His Majesty's maxim of *"I will not be corrupt and I will not tolerate corruption in others."*

Desuungs, by virtue, are natural partners of the ACC. There are 1644 Desuungs of whom over 900 have been engaged by the ACC, starting with the fourth batch. Two batches of 239 Desuung were engaged during the reporting period.

In the last nine years, the ACC in reaching out to general populace to sensitize on the importance of fighting against corruption and most importantly in strengthening and promoting inner values and character to curb corruption, it engaged different stakeholders such as the parliament, cabinet, judiciary, erstwhile CoS, bureaucracy, armed forces, local government, corporate sector and banks, business sector, tertiary institutes and schools, CSOs, ROs, media fraternity, youth groups and the general citizenry. Now, people accept that there is corruption in the country, have a better understanding of it and its impact on a small country. Corruption is a topical issue now. It has covered almost 199,857 participants (30 percent of population) from across 114 agencies and sectors.

Engaging the Youth

The World Development Report 2015 states, "Corruption in the social sense is a shared belief that using public office to benefit oneself and one's family and friends is widespread, expected and tolerated. In other words, corruption can be a social norm." Youth, in particular, perceive that corruption is a way of life. The TI 2014 Report, titled, "Asia Pacific Youth: Integrity in Crisis" reveals that young people face challenges in upholding their own integrity standards; they are willing to behave corruptly if it yields personal benefit. They believe that people have more chances of achieving success in life if they lie, cheat, break the law and act corruptly. It is also corroborated by the ACC's 2012 Report, titled, "Integrity and Value Education in Schools" where nearly one



Building



nformed Citizenry



Anti-corruption measures
Gewog Advocacy
Social Accountability
Corruption issues

Fairness integrity
ethics Fair
Accountability ethics Fair
Transparency integrity

in two students felt that they have to lie or cheat to succeed in life. However, the TI Report also reveals that over eighty percent of young people believe that youth want to take action against corruption, which is a critical resource. Youth and schools are critical in building an awakened citizenry, an incorruptible society. With over fifty-three percent of Bhutan's population being younger than twenty four years of age, this huge social capital has to be tapped and nurtured.

The ACC has been working with schools in infusing integrity and fundamental human values of trust, honesty, justice, fairness, sharing, etc. For example, Peer Helpers Training Club of Changangkha CMSS, piloted infusing integrity and human values in their activities. The concept has been replicated in Drugyel HSS. DHSS celebrated International Youth Day in their own small ways in creating awareness among the students about integrity through speeches and skits. Similarly, the ACC is also collaborating with Jigme Losel Primary School on the school's citizenship program that focuses on building sense of belongingness and upholding values of integrity, among others. However, collaborations with the schools are constrained by the disposition of the head and time with competing demands. More creative and flexible ways have to be explored, instead of conventionally limiting to extracurricular activities; values are intrinsic and universal and can be part of any activity, within the classroom or outside.

The ACC and a youth based CSO, namely, YMC have also been collaborating. As part of the MoU, YMC took the lead in commemorating the IACD, 2014 and it was the first initiative of engaging youth in the fight against corruption. A long-term understanding in the form of action plan is being developed.

In 2007, the ACC conducted free open air show titled "on the road for the youth" targeting mainly the youth with the primary objective of bringing positive youth development and spreading the message of highlighting collective responsibility in fighting against corruption.

In 2008, the ACC introduced the concept of "Island of Integrity" with an objective to promote

transparency and accountability in a work place or community. Nima HSS and Changangkha MSS were the two schools who came forward to initiate improvements in school admission and fund management system. However, this concept could not be sustained for the mere fact that there is no demand for "integrity"; that is the hard reality of life. The ACC hopes that the Education Ministry's infusing GNH values in schools will bring about behavioural change in students and teachers and effective and efficient management practices and through them bring about change in the larger society.

Jigme Losel Primary school, Drugyel HSS and Changangkha MSS and YMC are working with the ACC as future leaders in building an open and a strong society.

Gewog Advocacy Program

The Constitution of Kingdom of Bhutan articulates that it is every citizen's fundamental duty to uphold justice and to act against corruption. Two in three people around the globe believe that ordinary people can make a difference in the fight against corruption (GCB 2013). They have to be empowered to fulfill their fundamental duty. Empowerment comes from access to information, education and skills acquisition. Dissemination of information on policies, laws, plans, programs, budget and decision-making processes is of paramount importance to build the social capacity. Engaging citizens and building anti-corruption consciousness has always been the ACC's priority.

During the reporting year, the ACC carried out advocacy programs in nine gewogs of Lunana, Laya, Khatoe & Khamey of Gasa dzongkhag, Sombaykha and Gakiling of Haa dzongkhag and Lingzhi, Naro and Soe of Thimphu dzongkhag. With that, the ACC completed its first round of advocacy in 205 gewogs involving over 32,000 people. The advocacy program basically focused on creating topical awareness on corruption at the grass root level making them understand the causes and impact of corruption, legal frameworks and their rights and responsibilities in combating corruption, in particular their basic



Embedding ethics in the

FUTURE



rights and duties to demand greater transparency and accountability in the delivery of public services. While people are informed, they need to be actively engaged in preventing and combating corruption, more so now in a democratic setting.

The ACC, therefore, has started education programs on Social Accountability Tools (SAc) in collaboration with DLG, RIM, BTI and youth volunteers. In December 2014, the program was conducted in forty eight gewogs of Tashigang, Trashiyangtse, Mongar and Lhuntse covering 6116 general public including local functionaries and business fraternity. The participants shared that such tools would be useful in curbing corruption and improving service delivery in their locality. With the reach in Paro (BTI driven) and Samdrup Jongkhar, sixty nine gewogs and 7030 people have been covered.

Behavioral Change Program

Character development and behavioral change call for sustained and conscious effort of all stakeholders - a parent, a teacher, a community leader, a monk, a nun, a farmer, an entrepreneur, a politician, a CEO, a parliamentarian, a judge, a minister and so forth. Behavioral change program seeks to produce honest generations through ethics and integrity education and training program and to foster an organizational culture that promotes integrity, justice, equity, transparency and accountability and sense of shared responsibility.

e-Learning Program on Ethics and Integrity Management

The ACC in collaboration with the Royal Court of Justice, secretariats of the National Assembly (NA) and National Council (NC) and RIM launched the online ethics courses for the parliamentarians and justices/judges in June 2014. As of 31 March 2015, twelve out of 47 NA members completed the course and all NC members have successfully completed the course. All 66 justices/judges have enrolled for the course but only seven have successfully completed it. Although the number is very small, compliance is not as good as the civil service, where, of the

19737 civil servants who enrolled for the course out of a total of 23968 (civil servants above S5 level), 14,881 have successfully completed as of 31 March 2015.

Towards institutionalizing integrity instruments like code of conduct and conflict of interest through e-learning platform and to encourage respective agencies to take ownership of it, eight officials from the RCSC, NA and NC secretariats, BNLI, RIM and ACC were trained for eight days in Malaysia. As submitted in the last report, the ACC intends to adapt this program for campus learning by school children and university students in the near future.

Further, in order to consolidate and build a more effective system of ethics and integrity management in the public and private agencies, UNDP Asia Pacific Regional Centre, Bangkok was engaged in reviewing the implementation gaps in July/August 2014. A report, titled, *“Review of Ethics & Integrity Infrastructure in Bhutan”* has been published and was released by the RCSC Chairman in March 2015 coinciding with the second round of training on *“Ethics and Integrity Management.”* The expert team met with the officials from the parliament, judiciary, ministries, constitutional offices, corporate and private entities including media and CSOs.

The review highlights the effectiveness of the existing integrity tools like e-learning course on ethics and integrity, code of conduct, conflict of interest, asset declaration, Gift Rules, CRM and integrity diagnosis tools, etc.; adequacy of institutional capacities (policies, regulations, procedures and approach - whether rule based or value based); and its effective monitoring and evaluation. Some of the recommendations are already under implementation.

With the RCSC’s ongoing initiative to rationalize HRO’s functions, it is imperative that the HROs first understand the core values of civil service, the underpinnings of the Civil Service Code of Conduct and Ethics and the infrastructure required for an effective compliance regime. The ethical competencies of the HROs are central to bringing about behavioural change in fellow employees. In preparing for the effective implemen-

tation of ethics and integrity tools, the ACC in collaboration with MACA and MACC conducted two rounds of training on “Ethics and Integrity” in November 2014 and March 2015. A total of ninety two participants, mostly HROs from various public and private entities, have been trained on the fundamentals of ethics and integrity, establishment and implementation of integrity tools in agencies.

Commemorating IACD & National Anti-Corruption Week (NACW)

The IACD celebration is an important occasion to raise people’s awareness on corruption issues and promote anti-corruption programs. Commemorating the day and the NACW revitalize the ACC’s endeavor in building an awakened citizenry that denounces corruption, takes the responsibility of promoting good governance and eventually realizing the goal of GNH. The theme for the IACD & NACW 2014 celebration was “*Break the Corruption Chain*”.

Following were the main events during the reporting period:

1. 2nd round of gewog advocacy program focused on social accountability;
2. Engaged women participants of “*Empowering Women in Leadership and Governance*” (*Me-dhey Gakid Gi Tswa-Sheywen*);
3. In-dialogue session with three hydro power projects, mentioned before;
4. Photo contest on the theme, “*Our Issues, Our Solutions*” focused on transparency, accountability and integrity coordinated by YMC; and
5. Panel discussion on issues such as “*Youth as Leaders of Integrity*”, NIACS, “*Political Will: Key to Fighting Corruption*”, *Leadership*, “*Social Accountability: Votes to Voices*”, “*Asset Declaration System*”, “*Management of Conflict of Interest*” on BBS TV and radio.

The commemoration may have reached out to more than 81,303 people, directly and indirectly (6457 direct audience + more than 74,846 television audience) (as per the Bhutan Information and Media Impact Study 2013 by the Ministry of

Information and Communication).

The YMC launched a business venture called Enterprise 1 on December 9, 2014, which among others is expected to promote honest business (yet to be established).

Bhutan commemorated IACD since 2004 under the auspices of the RAA. With the establishment of the ACC in 2006, it steered the commemoration and declared the period from 10-16 December as the “National Anti-Corruption Week” in Bhutan. Since then, the day and the week have been observed with a variety of activities such as live panel discussions, essay, art and debate competitions, musical concerts, walk and marathon, advocacy programs, launch of programs, etc. The NACW also saw sustained dissemination of awareness messages through print media, TV, radio broadcast and mobile messages based on the themes. The themes (some international) were, “*Together we can stop corruption*,” “*Vibrant democracy: Our responsibility*,” “*Run Against Corruption*,” “*Am I CORRUPT?*”, “*Integrity in public service*,” “*Fostering ethical culture in the public service through partnership*,” “*Act: Against Corruption Today*,” “*Zero Corruption, 100% Development*” and “*Break the Corruption Chain*.”

Strategic Objective 3: Promote Cooperation and Partnership for a Collective Alliance against Corruption

Networking: Building Coalition against Corruption

“*Fighting corruption is a collective responsibility*” and “*Together we can make a difference*” are reinforcing mantras that the ACC has been promulgating since inception. It is not only because corruption affects everyone and to mobilize social capital but also because it is becoming a complex issue with interplays of dynamic factors in an increasingly intricate social, cultural and political milieu. The sense of shared responsibility has no geographical boundaries because corruption knows no boundaries especially with

the tsunami of materialism, consumerism, regionalization and globalization. The ACC, as a young institution has leapfrogged to become one of the effective anti-corruption agencies in the region and beyond, because it has constantly endeavored to remain connected to a network of international / regional / domestic resources for mutual development and growth.

National Networking

In an effort towards building national coalition, the ACC has been signing MoUs with its partners establishing a collaborative and sustainable framework underpinned by sense of ownership, mutual trust and confidence. Eighteen MoUs have been signed, nine each with CSOs and with public sector agencies. However, going beyond mere signing has been challenging for various reasons, primarily being priorities and conviction level varying between the partners. The ACC has been engaging its natural national partners as follows:

Parliament

Integrity, accountability and transparency of institutions are fundamental to a strong democratic culture. Parliamentarians have a pre-eminent role to play in the domestic and global drive to curb corruption while discharging functions as legislators to streamline and ensure equity of laws and regulations, overseeing the Government's business and representing the people.

While the role of parliamentarians in combating corruption is recognized worldwide, they especially in the developing world and emerging democracies often lack the capacity to fulfill this role efficiently. They, therefore, require assistance to develop processes and structures that foster greater efficiency in ensuring oversight, transparency and accountability on a sustainable basis in their own institutions first before demanding the same from the Government and other institutions or agencies. As a small step towards this, in April 2014, the ACC signed an MoU with the secretariats of NA and NC in rolling out e-learning course on "Ethics and Integrity Management" for the parliamentarians. Further,

integrity promotion tools like the CRM and IDT are also being administered and its measures being implemented.

Executive

The Prime Minister as the head of the Government has to be generally aware and informed of the country's state of affairs. Recognizing the important responsibility of apprising him on situation related to corruption and associated matters including policies and strategies to address the same within the country and experiences beyond, the ACC has instituted submission of quarterly appraisals to the Prime Minister since its early years. Ad hoc briefings are also made as and when warranted. Quarterly appraisals are also submitted to His Majesty the King.

The ACC in the past engaged the Cabinet only for the review of the anti-corruption bill. Recognizing the critical need to engage the Cabinet and the erstwhile CoS more regularly than in the past as bodies at the helm of governance, while being fully mindful of its independence not being undermined, quarterly meetings have been instituted starting 2014; it has been welcomed and endorsed by both. The ACC has had four meetings last year, two each with the Cabinet and CoS.

Further, the Cabinet as the highest decision making body that plays a central role in determining the collective wellbeing of the country and the people has to make conscious efforts in implementing integrity promotion and anti-corruption measures in its own house. Embracing the highest standard of integrity in how it conducts its business collectively and individually will ensure that it leads by example. It is a place where the highest level of corruption can occur, which most often is subtle and not as explicit as theft of public funds. Its secretariat also has to consciously work on implementing the NIACS, a KPI of the 11th FYP and the Annual Performance Agreements that it facilitates in managing.

Judiciary

Wisdom counsels that without justice and security, there can be no happiness and harmony

Integrity Framework Actionable results Integrity
 Networks Vulnerabilities Best practices Networks
 Reforms Reviews Policy Follow up Reform
 process



Building Strong Institutions



Integrity Scan



within the self, a family, an institution/agency, a community and within a society. The Judiciary is the epitome of justice and security. Unlike other institutions of governance and for sound reasons, it is not accountable to any entity but itself and the conscience of the justices, judges and associated professionals including court clerks. Therefore, it is imperative that the internal governance system and accountability measures are transparent, robust and effective that will ensure the highest standard of integrity and professionalism in the dispensers of justice that leads to a sense of security to the larger public. Therefore, in pursuit of further enhancing judicial conduct as an important priority and in close consultation with the Royal Court of Justice, the ACC proposes to conduct Judicial Integrity Scan with BNLI as the interface. This is also an effort towards implementing the NIACS in the Judiciary. The collaboration is expected to come up with measures in institutionalizing the existing online “Ethics and Integrity” course for the justices and judges. Judicial Integrity Scan is one of the eighteen tools, which identifies legal, institutional and practical gaps and addresses weakness of court systems. The scan is based on six judicial values, namely, independence, impartiality, personal integrity, propriety, equality, and competence and diligence enshrined in the Bangalore Principles of Judicial Conduct. It is aimed to determine needs assessment prior to the planning of justice sector reforms and to provide entry points for integrity based reform efforts consistent with the international standards to fight corruption in the context of UNCAC Self-Assessment. The ACC has also been working closely with the Judiciary particularly in building the capacity of the judges on emerging trends of corruption such as financial investigation and asset recovery and conflict of interest.

Constitutional Offices

The ACC enjoys good working relationship with other constitutional offices, namely, ECB, RAA and the RCSC. However, it has to go beyond simple working relationship and establish an effective framework for meaningful cooperation and collaboration in jointly fulfilling the greater responsibility of building a vibrant democracy for a strong, sovereign, prosperous and harmonious

nation.

The need for strong political systems and political parties must not only be recognized by the institutions of democracy and the electorate but more importantly work together consciously towards achieving it. Concerted efforts have to be made to curb political corruption, which is initially perpetrated during the electoral cycle of party financing, campaigning and polling and subsequently when politicians come to power; they misuse state funds and public administrative resources for electoral purposes, for party financiers and supporters and for bribing voters and election officials. It is vital that corruption risks are addressed given the serious consequences of corrupt exchanges between parties and “shadow” fund providers and access to the democratic decision-making process being able to be bought. The electorate’s narrow and unhealthy I-voted-for-you-now-you-pay-back mindset also has to change.

The ECB, RAA, ACC, media fraternity and the electorate have to work concertedly in educating the electorate, putting in place effective vigilance and intelligence infrastructure and rapid response teams, among others, to prevent unethical people from getting into governance. The ACC will work closely with the ECB and other partners, within the confines of the law, in proactively curbing political corruption. Citizens also need to be effective watchdogs over the conduct of politicians and political parties. Political parties must have strong and effective ethical code of conduct for its operations, candidates and office bearers and an equally effective compliance regime; transparency and accountability must be the hallmarks of their governance system.

The four constitutional offices used to meet annually with the larger agenda of strengthening democracy in Bhutan and building strong institutions. It was a platform for sharing policies, plans and program and discussing important issues and concerns (excerpt from the minutes of the first meeting). The first meeting was hosted by the RCSC on 28 October 2010. They met five times, the last being 6 August 2012.

The RAA, ACC and Internal Audit Units (IAUs)

of the ministries was the first collaborative forum that the ACC established on March 28, 2006 to forge greater understanding and cooperation between the parties without undermining respective independence. This forum kept the IAUs alive and lent meaning to their existence. The tripartite forum seems to have been dismantled after the Ministry of Finance took charge of its administration. The RAA's and ACC's mandates are complimentary, which naturally require them to work together. They meet biannually which forms the basis for bilateral cooperation and collaboration. The RAA shares its reports that contain corruption elements with the ACC. Enhanced understanding and collaboration between the two institutions not only reduces burden on the agencies under scrutiny but also ensures greater impact. The signed minutes of meeting, which has been the basis of the bilateral cooperation, will be superseded by the MoU proposed to be signed in April 2015.

Civil service is the vehicle for ensuring people centric governance and a vibrant economy. The RCSC, therefore, has the important responsibility of creating a caring, conscientious, clean and a highly performing meritocratic civil service. If the civil service is strong, the ACC need not even exist or its work can be curtailed. Until that happens, it is imperative that the RCSC and ACC work closely in ensuring a clean and an effective civil service. Towards this, the ACC through the SDC project supported Nu. 6.0 million for RCSC to redefine the terms of reference of HROs and designing specific code of conduct for the executives. A MoU has been drafted and will be signed between the RCSC and ACC within June 2015.

Law Enforcement Agencies

The ACC constantly endeavours to forge a strong coalition in the fight against corruption by building the capacity of its key partners such as the RBP, OAG, DRC, RMA, DoI and BNCA. These agencies' support to ACC is very critical. MoUs have been signed with OAG, RBP and RMA. Draft MoUs have been prepared to be signed with DRC and DoI. Three rounds of training on financial investigation and asset recovery have been conducted for all enforcement agencies, besides the judiciary and the financial institutions.

Local Government

Public trust in the Government is that trust which the local government, i.e. dzongkhag and gewog administrations earn being at the frontline of public service delivery. Bulk of the complaints lodged with the ACC is against local government. Till date, the ACC has engaged over 2100 local officials including Gewog Administrative Officers. Decentralization, democracy and Government's "*Wangste Chhirpel: Empowering people for liberty, equality and prosperity by devolving power and authority from the centre to the people*" policy have largely concentrated power and resources at the local officials' level. These have to be now devolved to the citizens. MoU has been signed between the ACC, DLG of MoHCA and RIM to work jointly towards lending meaning to *Wangtse Chhirpel* and democracy through productive engagement of citizens in planning and prioritization, resource allocation, expenditure tracking and results monitoring in local development programs.

Media

Credible and conscientious media is a critical institution of democracy. It also has an important role in the fight against corruption through information dissemination and educating the general mass about corruption issues and anti-corruption measures. There is a general perception that the ACC is about investigations and punitive actions; it is exacerbated by the inclination of the media to report on sensational stories than awareness raising and preventive programs. In the early days of its establishment, the ACC created a forum for interaction with the media fraternity but was abandoned because of the latter's exclusive interest in investigation. Attempt to revive it later also met with the same fate. Public trust is vital to the ACC and hence people must be informed in time on all issues of public interests.

Media and civil society can be immensely instrumental in changing perception and behavior and promoting values besides creating public awareness on important issues such as corruption. However, besides modest efforts in building the capacity of media houses and developing

a public communication strategy, the ACC has not been able to do much. The ACC has plans to work together with Bhutan Media Foundation and Journalist Association of Bhutan in building the media fraternity's anti-corruption capacity.

Private

A credible private sector is equally important as the public sector for a vibrant economy. The private sector is generally seen to be a source for bribes, political and charitable contributions, sponsorships and facilitation payments. It can also be a victim of corruption. Corresponding integrity and anti-corruption programs in the sector have been weak and sporadic to date. In January 2015, in a comprehensive effort towards enhancing sustained ethical business practices, "Bhutan Private Sector Integrity Program" was drafted in collaboration with Business Integrity Program of Transparency International, Malaysia. Among others, it is aimed to establish integrity infrastructure to safeguard the sector based on international best practices like Integrity Pact (enhancement in Bhutan's context), formulation of Model Business Code of Conduct and Corporate Integrity Pledge. The collaborative program is expected to be launched in June, 2015 after having engaged the primary stakeholders in enhancing public trust in business, to deliver fair market and ensure level playing field by fighting corruption.

Civil Society

The CSOs, as representatives and voice of the citizenry, can help in checking corruption by exposing corrupt activities, monitoring actions and decisions of public entities, demanding transparency and accountability and creating anti-corruption awareness. Till date, the ACC has signed MoUs with nine major CSOs, namely the Association of Bhutanese Tour Operators, Bhutan Centre for Media & Democracy, Respect, Educate, Nurture & Empower Women, Tarayana Foundation, Loden Foundation, Guide Association of Bhutan, Bhutan Association of Women Entrepreneurs, YMC and recently (April, 2015) with the newly established BTI.

The MoU is aimed towards establishing a sustained and effective collaboration and partnership between the ACC and CSOs in combating corruption through participation and building ethical competencies and ethical leadership in the CSOs. However, strengthening their own organizational integrity system and building anti-corruption capabilities are priority areas, which the ACC expects BTI to discharge. Like the ACC, CSOs have to be incorruptible, effective and trustworthy, both as a partner and a watchdog.

The ACC recognizes that the ultimate anti-corruption strategy is taming the mind, which is profoundly embedded in the spirituality of individuals. In order to pursue it, engagement of spiritual institutions and leaders may be meaningful. However, the ACC has not been able to realize it. It is area that has to be explored in future, especially considering that Bhutan is a richly spiritual nation and her development philosophy of GNH is intrinsically about spirituality.

International Networking

Since its inception, the ACC has been actively exchanging programs with agencies like ACRC, CBI of India and its Academy, CPIB, Singapore, Independent Commission Against Corruption, Hong Kong and New South Wales, NACC, Kingdom of Thailand, MACC and MACA. Further, having been recognized as one of the progressive anti-corruption agencies in the region, the international fraternity has been inviting the ACC to various international and regional fora to share its experiences (refer Table 4.1). Such programs have also helped in paving the way for greater cooperation with premier institutions.

The networking and collaboration, so far, has been based on ad hoc requests. Therefore, MoUs are being signed for sustained collaboration. A highlight of the international networking for the reporting year is the signing of the MoU between the ACC and MACC on 11 March, 2015 in Kuala Lumpur, Malaysia. The MoU is expected to strengthen and institutionalize the ongoing programs of capacity development and enhancing institutional systems of ACC through ICTization.



Building regional & international coalition

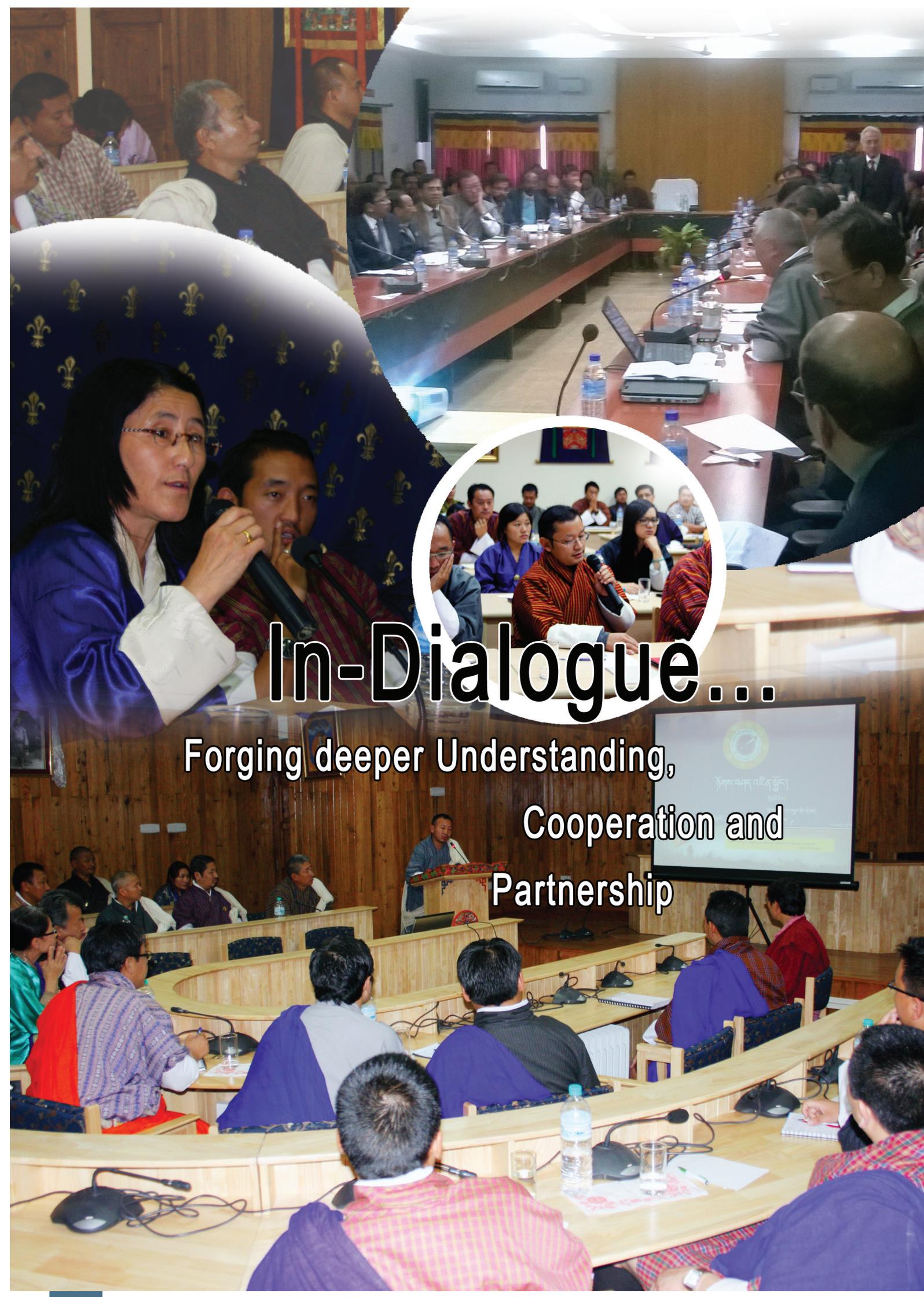
Networking

HON. TAN SRI ABU KASSIM MOHAMED

MS. NETHI ZANGIAD
CHAMPION
Anti-Corruption Commission, Singapore

Table 4.1: Summary of international networking activities during the reporting year

SN	Institution/program
April 2014	<i>ACC Bangladesh- invitation of German Technical Cooperation (BIZ)- shared strategic planning experiences of formulating the NIACS</i>
May 2014	<i>Senegalese counterpart (OFNAC – National Office for the Fight against Fraud and Corruption) - invitation to west African regional conference on “Asset Disclosure”- shared experience on asset declaration management</i>
May 2014	<i>FBI NA Asia Pacific Chapter Conference at Kathmandu, Nepal. ACC has two alumnae.</i>
June 2014	<i>Regional dialogue in Bangkok on “Transparency, Accountability and Voices against Corruption- Accelerating Human Development in Asia Pacific”.</i>
September 2014	<i>8th Regional Conference of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, Phnom Penh, Kingdom of Cambodia. It is one of the largest and the most active network of anti-corruption agencies (ACAs). Bhutan became 28th member of this initiative in 3 September 2007 and member of an advisory body, “Small Group on Implementation (SGI)” which was formed in September 2009.</i> <i>On the sidelines of the conference, in pursuance of the UNODC’s sustained efforts towards supporting ACAs in the region, the ACC shared its experiences and documents with ACC, Myanmar.</i>
September 2014	<i>5th Annual Conference of the Global Focal Points Network & 7th session of the UNCAC Asset Recovery Working Group, Vienna, Austria.</i>
October 2014	<i>Shared its experiences and best practices on Public Administration and Good Governance of Colombo Plan Countries, Indonesia.</i>
November 2014	<i>Joint Financial Action Task Force (FATF) and Asia/Pacific Group (APG) Experts’ meeting on money laundering and terrorist financing typologies and APG technical seminars in Bangkok.</i>
December 2014	<i>Third biennial meeting of the World Bank group’s International Corruption Hunters Alliance (ICHA) on the theme “Ending Impunity for Corruption, Washington, DC.</i>
January 2015	<i>The Seoul Debate 2015 in Republic of South Korea- invitation of UNDP Seoul Policy Centre (USPC). The debates discussed policies, strategies and institutional arrangements to prevent corruption in the public sector based on Korea’s recent experience, as well as from at least 10 countries around the world. The Seoul Debate underpins the fact that people around the world care about corruption issue. Corruption hits at the very core of human dignity and national wellbeing; it undermines the very soul of governance, TRUST.</i>
April 8-9, 2015	<i>The focus group discussion to finalize the research methodology on ACA strengthening initiative in Asia Pacific in Bangkok - invitation of TI. The discussion will bring together experts and practitioners to review the draft methodology designed to assess the effectiveness and performance of ACAs.</i>



In-Dialogue...

Forging deeper Understanding,
Cooperation and
Partnership

Till date, the ACC has participated in thirty nine major international events/conferences and has received delegates from six counterpart agencies, namely, CBI, India, NACC, Kingdom of Thailand, MACC, Botswana, Timor Leste and Maldives. These collaborations not only contribute to exchange of knowledge and experiences but also reassures and validates the ACC's approach to preventing and combating corruption.

In-dialogue Sessions

The ACC has been interacting with different agencies in deepening mutual understanding and trust and forging meaningful partnership in the fight against corruption. The in-dialogue sessions have been useful in many ways such as sharing issues and challenges, best practices and measures and bringing improvement in the performances through case examples. Openness and criticism have been encouraged in all the sessions.

During the reporting period, the ACC conducted in-dialogue sessions with five corporate entities, namely BDBL, Punatshangchu Hydroelectric (I & II) and Mangdechhu Hydroelectric Project Authority, Daga Hydroelectric Project Authority and State Trading Corporation Bhutan Ltd. involving 217 officials. A written assurance on benchmarking project for design, engineering, contracts, execution, quality control and to adapt best practices for the future projects in Bhutan have been received from Mangdechhu Hydroelectric Project Authority on 30 December 2014.

Till date, the ACC has conducted such sessions with thirty-two agencies including nine ministries (except Ministry of Home & Cultural Affairs), involving 693 civil servants across all ranks.

Product Development and Mass Communications: Informing People

Fighting corruption is perceived to be challenging and people breed the attitude of uncertainty compounded by tolerance, indifference and resignation that nothing can be done about it. In such an environment, it becomes ever more compelling to continually educate the general public on risks and costs of corruption and to empower them to

become actively involved in preventing and combating corruption. This demands continuous and creative means to inform and educate people. However, with limited in-house and domestic capacity for producing IEC materials the ACC has not been able to do much in this important area. Neither has it been able to exploit the rich opportunity offered by technology, social media, especially in capturing the imagination of the youth and the Government in making the fight against corruption "fun" as in many countries.

Since its inception, the ACC has only been able to develop about eight information brochures, two calendars and ten infomercials. With the appointment of a full time media and communications officer, the area may receive greater attention. Financial resource, however, has never been the problem.

Strategic Objective 4: Strengthen Systems to Prevent and Combat Corruption

The ACC has been striving towards institutionalizing integrity and anti-corruption measures in the institutions and agencies through adopting and implementing anti-corruption tools, conducting corruption surveys and research, strengthening legal framework and operating systems.

Corruption Risk Management (CRM)

The ACC has adopted CRM and IDT besides other important tools such as conflict of interest, Integrity Pact and social accountability tools. CRM is a simple in-house management tool that helps identify potential corruption risks in an agency, assesses those identified risks in terms of severity to the organizational performance, goal and image, analyze their causes and develop corrective measures to minimize or eradicate those risks. CRM was adapted from Korea Expressway Corporation and it was piloted in the ACC on 31 March 2010. During the reporting year, CRM was conducted in three agencies.

So far the ACC has conducted thirty CRM exercises in twenty-six agencies including the first

Table 4.2: Implementation status of CRM since its inception in 2010

Year	2010	2011	2012	2013	2014	2015	Total
Agencies Covered	ACC, PCC, IAUs, DGM, CDCL, DoFS	RICBL, RSTA, DRC, NHDC, DAC, DCRD & HR-MoE, DVED-MoH, BT, NLCS	Mongar dzongkhag, Monggar RRH, NC, BPC, IAUs (2nd ToT), MoLHR	NC (2nd), BoB, Bhutan Post	Trongsa dzongkhag, ACC (2nd), CRRH-Gelephu, Dagana dzongkhag	ACC (2nd ToT)	
Action							
No. of agencies	6	10	6	3	4	1	30
No. of participants	175	339	185	92	178	35	1004
No. of risk identified	59	171	64	30	43	0	367
No. of agencies that submitted report	3	9	2	3	2	0	19
No. of agencies that have not submitted report	2	1	3	0	2	0	8
Report submission not applicable	1	0	1	0	0	1	3

and second ToT for internal auditors and the ACC officials; two rounds in both the National Council Secretariat and the ACC (refer Table 4.2). Internal Auditors have been playing an important role in assessing risks, drawing measures to prevent those risks and in essence institutionalizing CRM in their agencies. For example, Internal Auditors of Ministry of Economic Affairs conducted CRM in all its departments.

A total of 1004 officials have been trained and 367 risks identified in thirty agencies including the ACC. Table 4.2 presents the implementation status of CRM since its inception in 2010.

Follow-up on the implementation of CRM report is carried out rigorously. Nineteen agencies have reported on the implementation status of their CRM measures. Construction Development Corporation Ltd. fulfilled 100 percent implementation of its measures; some reportedly have implemented partially e.g. DGM – 84.6 percent, RICBL – 78.26 percent, RSTA – 95 percent and DRC – 74.36 percent. Eight agencies, namely

Phuentsholing City Corporation, Department of Forestry & Park Services, NLCS, MRRH, MoLHR, BPCL, Trongsa dzongkhag and Dagana dzongkhag Administration have not submitted their implementation report despite the follow-up letters. The agencies are also requested to submit implementation proof documents following the submission of report for validation. However, the ACC is optimistic that with the implementation of CRM measures, corruption risks in the agencies have correspondingly been reduced.

Some of the significant measures implemented in the agencies are (i) development of service manual and introduction of performance benchmarking (CDCL); (ii) formation of committees with ToR for processing and approving mines (DGM); (iii) development of claims manual and internal control mechanism (RICBL); (iv) online system and tenancy agreement (NHDC); (v) development of inventory and formation of committees and quality assurance checking (Drugs, Vaccines & Equipment Division, MoH); (vi) scrutiny of documents and revised document requirements

(RSTA); (vii) introduction of standard operating procedures and CoI (Bhutan Post), etc.

Although these measures may have played significant role in promoting transparency and accountability in the delivery of service by the agencies as reported, the actual impact assessment of the CRM measures remains a challenge. A proxy assessment that the ACC can do is through number of complaints received and cases investigated against these agencies. The agencies have to recognize that CRM has to be institutionalized within their internal governance system; it has to be transparent, participatory and dynamic instead of a one-time exercise driven externally. The ACC driving the process initially is fine but at some point in time it has to be driven from within and by its top leadership.

Integrity Diagnostic Tool (IDT)

Corruption risks are generally linked to lack of integrity, transparency, accountability, poor communication, professionalism and due diligence. The overall health of an agency is gauged using IDT, a tool adapted in October 2012 after being piloted in the ACC as a part the Change Management Plan. It was also piloted in three agencies, namely, RCSC, Kuensel Corporation Ltd. and National Council Secretariat and further retested. IDT provides agencies with a blueprint for diagnosing their integrity and corruption risks, some general indicators of the agency's overall integrity and suggestions for improvement.

During the reporting period, as requested, IDT was conducted in the Central Regional Referral Hospital (CRRH), Gelephu, along with the CRM to assess its overall integrity and identify measures for enhancing it. While IDT diagnoses an agency's general health, CRM helps determine its antidote. The report has been shared with CRRH for implementation.

The ACC's integrity diagnosis was covered under Section 2.

Till now, the ACC has conducted thirty-seven integrity diagnoses in thirty-one public entities including itself, involving a total of 1366 offi-

cial. Capacity development of agencies has been a priority to enable them to integrate the diagnosis into the internal governance system. The Regional Trade and Industry Office, Samdrup Jongkhar scored the highest with 91.2 points (on a scale of 0-100, 0 means highly corrupt and 100 means highly transparent) and BoBL, Phuntsholing scored the lowest with 61.40 points followed by Gelephu Thromde with 73.03 points.

The IDT implementation status report like that of CRM is required to be submitted every six months. Only eleven agencies namely, ACC, RCSC, RICBL, Dagana Dzongkhag, Trashiyangtse Dzongkhag, Thimphu Thromde, CRRH, Samdrup Jongkhar Dzongkhag, Sarpang Dzongkhag, Zhemgang Dzongkhag and Bhutan Postal Corporation have submitted their reports. Sense of ownership and enforcement of integrity promotion measures is still lacking across agencies.

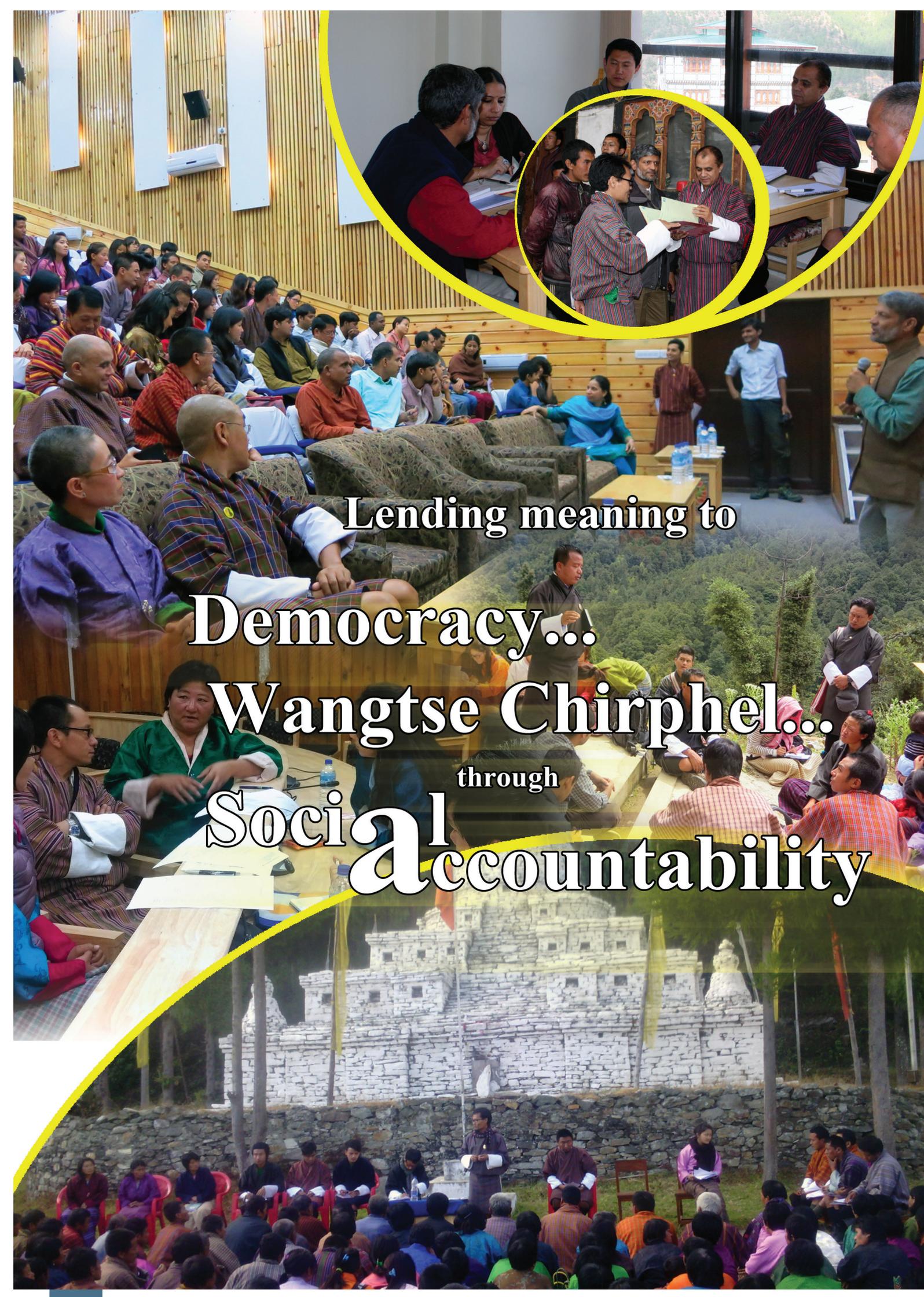
The ACC's will introduce and institutionalize CRM and IDT at the local government level for the larger benefit of the citizens.

Social Accountability: Fight against Corruption to Begin from the Grassroots

"The prosperity of the people is a vital goal in our ultimate objective to create a harmonious and just society. Besides achieving economic success, we must also invest in enhancing the capabilities of our people so that they can shoulder greater responsibilities," (HM's address to the 3rd Session of the 2nd Parliament, May 16, 2014)

"There has been a growing recognition in the international anti-corruption community and among development institutions and donors, especially over the past five years, that corruption cannot be challenged unless the civic realm, including an active citizenry, is involved." (Shaazka Beyerle, 2010, People count: How citizen engagement and action challenge corruption and abuse).

Social accountability is an effective strategy to actively engage citizens in promoting accountability in policy prioritization, budget allocation, expenditure tracking and monitoring results,



Lending meaning to

Democracy...

Wangtse Chirphel...

through

Social
Accountability

which is essential in building a vibrant democracy. Citizens must learn to take care of themselves and their resources. They cannot simply be passive recipients of development dividends has been the Monarchs' conviction. His Majesty the King, said, *"It is important to strengthen the people and not only the country"* (Address to the new Cabinet, 27 July 2013). Citizens' engagement is no more a matter of choice but a development imperative.

The ACC in collaboration with DLG and RIM has been working towards integrating social accountability culture within the local governance system while being fully mindful of the risk of confrontation primarily because of the fear of local officials of losing their authority and control and arrogance of the citizens to fix the former.

Following the ToTs in Samtse gewog on CRC, Samtenling gewog, Gelephu on CSC in December 2013 and budget analysis & expenditure tracking in Trong gewog, Zhemgang in February 2014, CSC was replicated by RIM in Lamgong and Wangchang gewogs of Paro dzongkhag during the reporting year. Further, to fully understand the context of local governance structure in Bhutan and its practices, Mazdoor Kisan Shakti Sangathan (MKSS), India, conducted the scoping exercise in Genekha gewog, Thimphu in May 2014. The scoping mission was also to prepare a tailor made training program for Bhutan.

Following the scoping exercise, hands-on training on 'Social Audit' was facilitated by trainers from MKSS and Society for Social Audit, Accountability and Transparency (SSAAT), India in selected local schemes in Kawang, Maedwang, Chang, Darkarla and Genekha gewogs, Thimphu from 2-9 September 2014. To ensure sustainability of SA exercise in terms of trainers, 103 participants from the CSOs, youth volunteers, government representatives from ACC, DLG and RIM and the direct beneficiaries of the services from the villages were trained.

A follow up review on SA in collaboration DLG and the participants of Social Audit training conducted in November 2014, indicated that gewogs were implementing the activities prompted by the SA exercises. For instance: in Samtse gewog, the

dzongkhag administration had developed their service standards; in Kawang gewog people's grievance over the locked *menchu* (medicinal spring) at Chokhor reportedly for cleanliness were solved by fitting a pipe and making it accessible to the visitors and Genekha gewog has started maintenance of its farm road.

At the national level, from 24-25 December 2014, a team from RIM facilitated a workshop on CSC to enhance passport services, strengthen accountability culture in providing the services and most importantly develop a service delivery standard in line with the G2C's objective. An action plan was developed by the concerned agencies and Department of Protocol during the workshop. The implementation status of the action plan will be reviewed after six months.

Bhutan Transparency Initiative has also been working in close collaboration with the ACC. In its first endeavor to empower citizens and strengthen governance, BTI conducted sensitization program and rolled out the CSC in Paro Dzongkhag covering all ten gewogs and 972 people (875 sensitized and 97 trained) from 15 February-15 March 2015. An ACC official joined the BTI team. Further, from 18-19 March 2015, the ACC and RIM conducted a sensitization workshop on CSC for thirty-eight participants from Samdrup Jongkhar Dzongkhag at the Choekyi Gyatso Institute, Deothang.

With the introduction of all four tools of SA in the country, a long-term action plan has been drawn. It focuses on the development of the SA manual (consolidated guideline of the four tools), sensitization in remaining gewogs, a methodical roll out of the tools to selected gewogs and subsequently covering all gewogs and monitoring and evaluation mechanism. Till date, a total of 7030 and 362 people have been sensitized and trained, respectively in the four SA tools (largely CSC). RIM has built its in-house knowledge and skills on the four tools.

The SA workshops and trainings have been well received by the participants, enhancing their understanding in responsibly and collectively demanding transparency and accountability from the service providers and working towards im-

proving both the quality of services and the efficiency of their delivery. Aap Khawjay from Shongphu gewog said, “In the past, many agencies came and conducted training but till now I have never heard about social accountability. I feel today’s training is important in a democratic country if the people work hard, it will help develop the Government.” However, in the initial phase the facilitators faced challenges of confrontation between service providers and users. For example, there were incidences of confusion and disorder during the implementation of the tools among the gewog functionaries and the public, local government officials being resistant to give access to documents and miscommunication, among others, impeding the process. Therefore, prior education and sensitization of the public on SA and its importance and the values of accountability and responsibility among others are imperative. Series of panel discussions and a documentary film on the same have been broadcasted on BBS TV.

Through platforms such as SA tools, the Government will be able to focus on the specific issues that people are of concerned in their daily lives and finding innovative, open solutions together with citizens, CSOs and other partners. While public interest and momentum have been generated, the ACC and its partners are unable to sus-

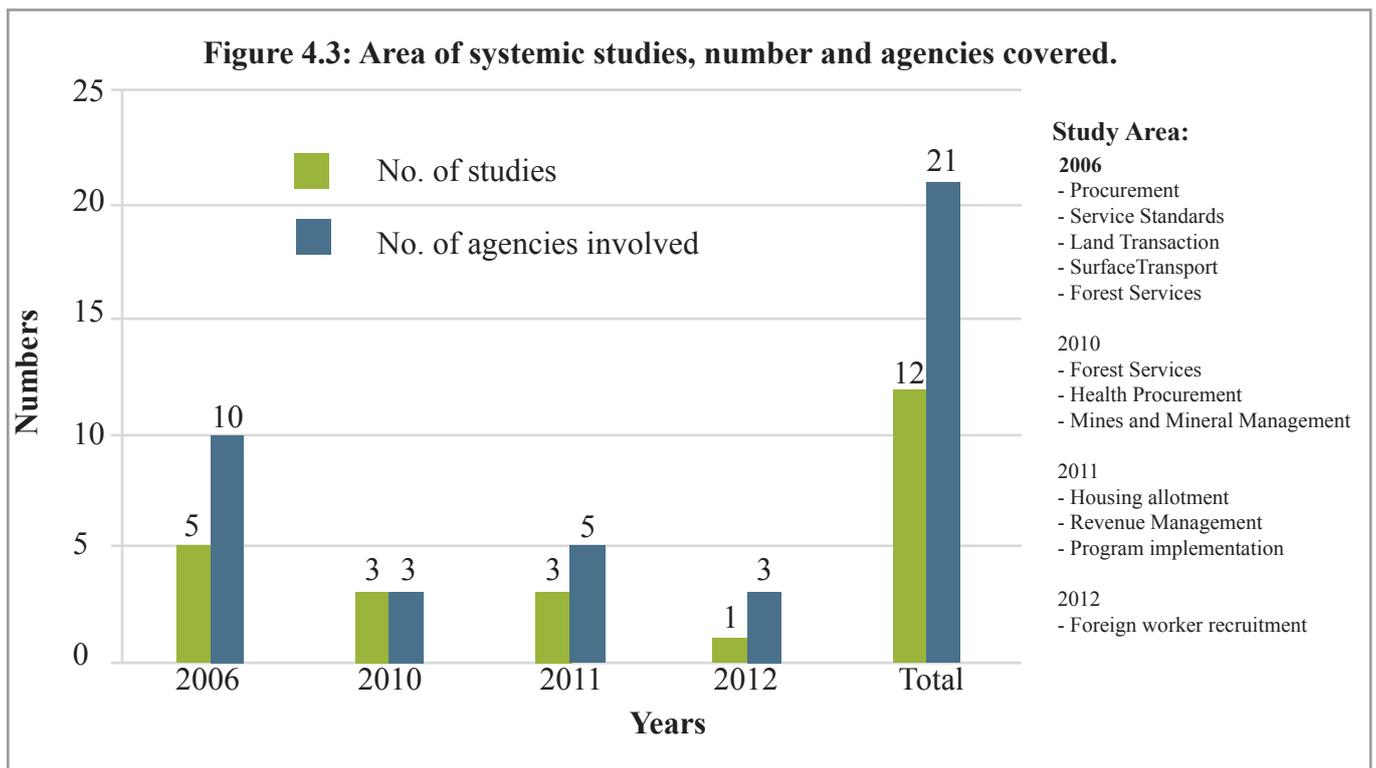
tain it because of other “priorities”.

Systemic Review

Corruption can be minimized through plugging loopholes and weaknesses in the system, which are causes for inefficiency, administrative burden and corruption. Excessive regulations, unclear and conflicting policies and long processes in the service deliveries create irritation and tension. This gradually gives rise to rent seeking behaviour of service providers, among others. Simplification of rules, dissemination of rules, one-stop services, minimizing human interface through use of technology, effective enforcement and just and fair implementation of rules by the front desk officials in all the agencies are some simple systemic interventions.

The ACC conducts proactive and reactive systemic reviews. Areas that bear larger impact on people’s lives, country’s economy and vulnerability to corruption are the primary targets for review. It is also the responsibility of agencies to conduct systemic review from time to time for better delivery of quality services and optimization of resources.

Twelve systemic studies covering twenty agencies have been conducted till date. Eight were



proactive studies based on vulnerabilities, service standards development and administrative burden reduction (using SCM) and four reactive studies based on complaints and investigation (apparently, every investigation report carries systems improvement recommendations; so will be many more than four). Figure 4.3 presents the areas and number of systemic studies conducted and number of agencies covered.

Some of the key recommendations made to the implementing agencies from the above studies were:

- development of tender evaluation guide, ToR for tender and evaluation committee members specifying minimum competency requirements and also incorporating “Integrity Pact” in tender documents to MoWHS and Ministry of Finance;
- promoting service standards, public grievance redressal mechanism, development and implementation of the concept of one-stop shop tools across agencies for good governance and efficient public service delivery;
- consolidating the existing transaction rules and procedures and development of “Service standards for land transaction 2006”.
- development and implementation of online application, registration, licensing, online updating, online location of bus, online status of tickets and access to online road conditions by the RSTA (service standards developed);
- strengthening service standards of department of forestry and enhancing implementation of existing forest rules and regulations to improve compliance; timber subsidy to be reviewed;
- development of a clear-cut policy on mining and adoption of a system for transparent and effective application registration system; obtaining National Environment Commission clearance at the initial stage of application process; managing conflict of interests and avoiding stagnation of posts, especially in mines inspection;
- institution of tender committees with defined ToR and developing inventory and mechanisms for quality assurance in the health procurement; streamlining patient referral system (there was no system of monitoring the services of the designated hospitals in India),

recruitment of liaison officer was based on *kidu*, etc.

- establishment of house allotment rule by National Pension & Provident Fund and implementation of fair system of house allotment;
- review the provisions in the MoU and strictly adhere to the provisions prescribed thereof, rectify the fund flow mechanism and establish an effective accountability system, changing the current operational modality and establishing check and balance including a system of declaring conflict of interest and its management by Royal Bhutan Army in the implementation of HIV/AIDS program;
- addition of new provisions in the Financial Rules and Regulations such as agencies having to deposit any recoveries within a specific timeframe, exercise of due diligence by BoBL when dealing with revenue accounts and including revenue accounts as a core risk area in annual auditing plans by RAA; and
- implementation of Foreign Workers Recruitment Agents (FWRA) Regulation 2008 fully and instituting a clear system for processing additional workers request by Ministry of Labour and Human Resources in collaboration DoI and FWRAs.

While numerous systemic improvement recommendations have been made to various agencies (largely post-investigations), the ACC has not been able to either follow-up on the implementation of the same or conduct impact assessments of the interventions. There is weakness in the in-house documentation of such records. Commitment of the agencies is also mixed; in situations where heads change, recommendations are also forgotten (public perception is that systems are largely personality driven). It has been observed in some instances that benefits accrued are temporary and not sustained because of relapse of old habits.

Standard Cost Model

The SCM is a useful tool for simplification, standardization and removal of deficiency in the system for effective service delivery. Prior to first piloting in the RSTA, a workshop on ‘Preventing Corruption: Adapting SCM,’ was organized from April 3-5, 2007 in Thimphu, facilitated by

the Director of Inter-ministerial Project Unit for Administrative Burdens, Ministry of Finance of the Netherlands.

The SCM monetizes time and other resources it takes to obtain a service resulting from administrative burden. The cost implications are both on the service provider and recipient. Following the piloting in the RSTA, it reported of having reduced the administrative burden in services by Nu. 3.499 million and the time taken for issuing driving licenses reduced from three months to, on an average, three days (this was the story then). One stop shop had been established at the regional transport offices. Similar pilot studies were done for the issuance of trade license and building clearance in Thimphu City Corporation.

This ushered in the G2C initiative. The SCM is now merged with RIA monitored by the Cabinet Secretariat. Its efficacy may have to be reviewed.

Corruption Surveys and Research

Surveys and research help promote evidence based interventions. The first Corruption Perception Survey (CPS) was conducted in 2007, People's Attitude to Corruption and Anti-Corruption Commission Survey in 2009, NIA surveys in 2009 and 2012 and the survey on "Integrity and Value Education in Schools" also in 2012. The NIA is more scientific and focused than the CPS (it is subjective) as it is confined to payment of bribery and other forms of gratification while receiving services, respondents are service recipients, whose list is obtained from the service providing agencies.

The NIA 2009 covered 43 vulnerable services of 27 public organizations with 6155 service users. NIA 2012 was of much bigger scope covering 379 services of 67 public organizations with 6969 service users and 2097 employees of the service providing agencies, a new element was introduced to assess the internal integrity of agencies from the perspective of their own people. While the results were shared with all agencies, discussions on the findings were held with only twelve for interventions. The findings are expected to help agencies understand the weaknesses in their system and adopt integrity promotion measures

to address them for better delivery of quality services. In order to build the confidence of the agencies, disaggregated results of both the surveys have not been published, which will not be the case in future.

The third NIA, which is planned for 2015/16, will include more agencies in the discussion to select additional vulnerable services for assessment and enhancement of transparency and accountability. Efforts will continue to be made to enrich and update the methodology with assistance from the ACRC, Republic of Korea. In order to minimize perception and assumption, greater focus will be given to empirical study that is based on people's actual experience and observation like that of Vietnam Provincial Governance and Public Administration Performance Index (PAPI) in the next survey. PAPI is the largest time-series national governance and public administration performance monitoring tool in Vietnam exclusively based on the citizens experiences. PAPI assesses three mutually reinforcing processes: policy making, policy implementation and the monitoring of public service delivery.

During the reporting period, the ACC in collaboration with the RIM initiated a research program on good governance system and anti-corruption measures. An MoU was signed between the ACC and RIM on 22 May 2014 to enhance research competency and to forge a culture of quality research. The research areas have been identified as land, procurement and construction, natural resources, human resource management and election, which are more prone to corruption and have greater bearing on country's socio-economic and political stability. The research is aimed at providing analysis and guidance for forward-looking interventions in the five areas.

As a part of the research program, a scoping mission was fielded to examine the extent, range, and nature of research activity, determine the value of undertaking a full systematic review and identify gaps in the existing system and literature. The scoping team held consultative meetings with eleven agencies, namely, RCSC, PPPD, CDB, DGM, Department of Forest and Park Services, Natural Resources Development Corporation Ltd., NLCS, Thimphu Thromde, ECB, media,

Evidence based decision

The Anti-Corruption

People's Attitude towards Corruption and Anti-Corruption Commission

CAPACITY ASSESSMENT OF THE ANTI-CORRUPTION COMMISSION



Royal Government of Bhutan
Anti-Corruption Commission

Report on
Integrity and Value Education in Schools
2012

National Integrity
Anti-Corruption Strategy
2014-2018

Zero Tolerance to Corruption for Gross National Happiness

20TH BY 2020 GOVERN



ANTI-CORRUPTION
COMMISSION
Royal Government of Bhutan



CORRUPTION
PERCEPTION SURVEY
2007

Cultivating a culture of qualitative research

REVIEW OF THE ETHICS AND
INTEGRITY INFRASTRUCTURE
IN BHUTAN



political parties and political experts; seventy two senior officials from the nine public entities participated in the meeting. The scoping mission defined a comprehensive empirical research to be conducted in the five areas that will assess the nature, types and costs of corruption and accordingly recommend measures to address them.

In preparation for the research program, the ACC in collaboration with RIM conducted a five days training on Research Methods in Phuentsholing from 5–9 January 2015 for thirty two participants from the ACC, ECB, NLCS, DGM, PPPD, Royal University of Bhutan and RIM. Professor Meine Pieter van Dijk from Maastricht School of Management, The Netherland was the resource person. The training helped the research participants to draw concrete research proposals.

The final product of the research program will be research papers on anti-corruption and good governance in the selected areas, which will be presented to a larger audience for public discourse and to the Government for possible interventions. It is also planned to publish three to four research papers in renowned journals for academic credential. The ACC is in the process of recruiting experts to conduct the research and also train local

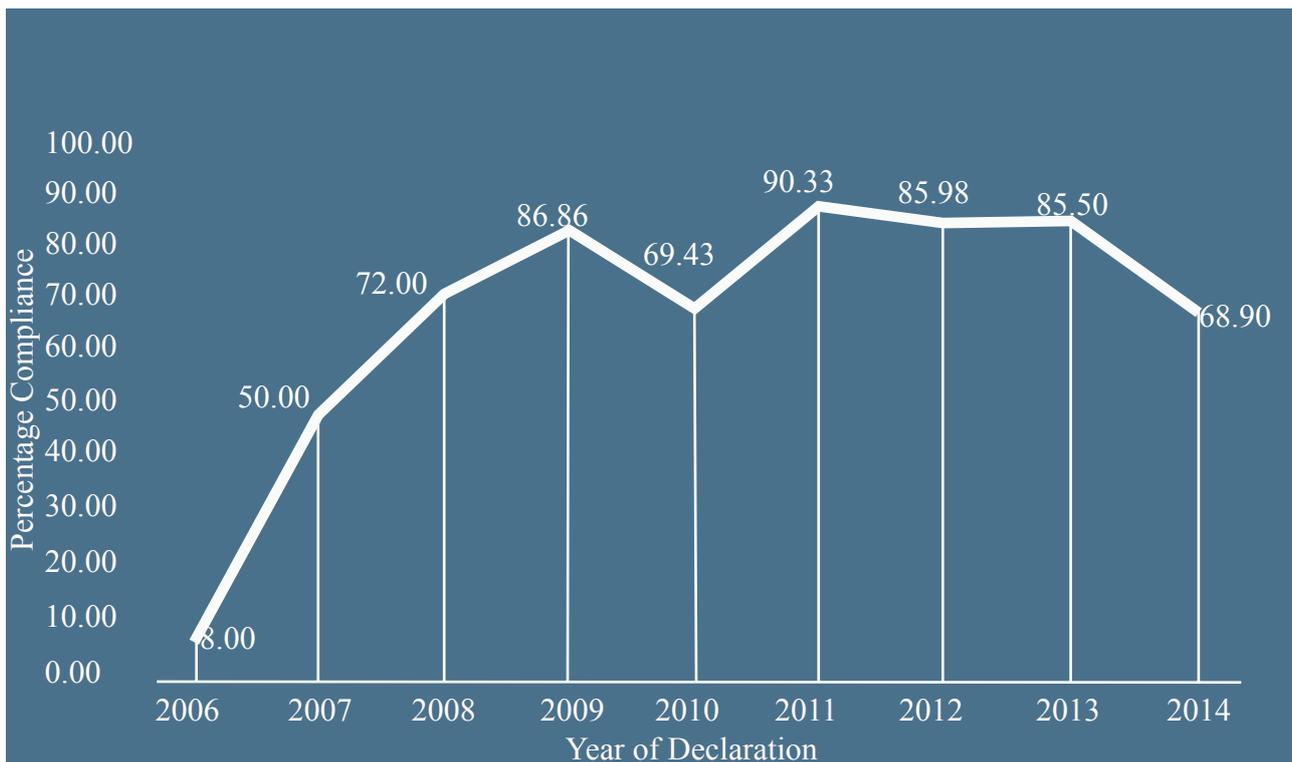
researchers, which is a challenge. The research is expected to be completed by the end of 2015. The stakeholders will be closely involved in the research program.

Asset Declarations

Public servants as custodians of public resources have to ensure that the resources are used exclusively for the benefit of the people. Asset and liabilities declaration (AD) is an important corruption prevention and a public accountability tool. Declaration of income, asset and liabilities ensures that the custodians of public resources lead a lifestyle that is within their lawful means. Public servants of agencies using public resources, their spouse(s) and dependent are required to declare their income, assets and liabilities. Asset declaration in Bhutan aims to check illicit enrichment by public officials.

Although the need to declare assets and liabilities existed within the civil service for a long time, it, however, became legally binding and effective only in 2006 with the enactment of the ACAB 2006. The AD instrument was developed with a guideline in early 2006; its implementation start-

Figure 4.4: Compliance rate for the last nine years



ed towards the end of the same year with December end as the declaration deadline. In the initial period, compliance was weak because dissemination was weak; there was no capacity and no compliance assurance infrastructure was in place. Hence, the focus during the initial period was on capacity and systems building. Unrealistic penalty provisions in the AD Rules 2008 also hindered strict enforcement, which was revised in 2012. Rules 2008 also changed the declaration deadline to the end of March in order to link with tax filing with a month's grace period; although the ACC and DRC have not discussed the potential mutual benefit that the systems may have to offer. Thus, with the strict enforcement of AD Rules 2012, aggressive education and capacity development efforts, AD compliance improved. The AD system has also made numerous improvements through feedback/recommendations sought from the

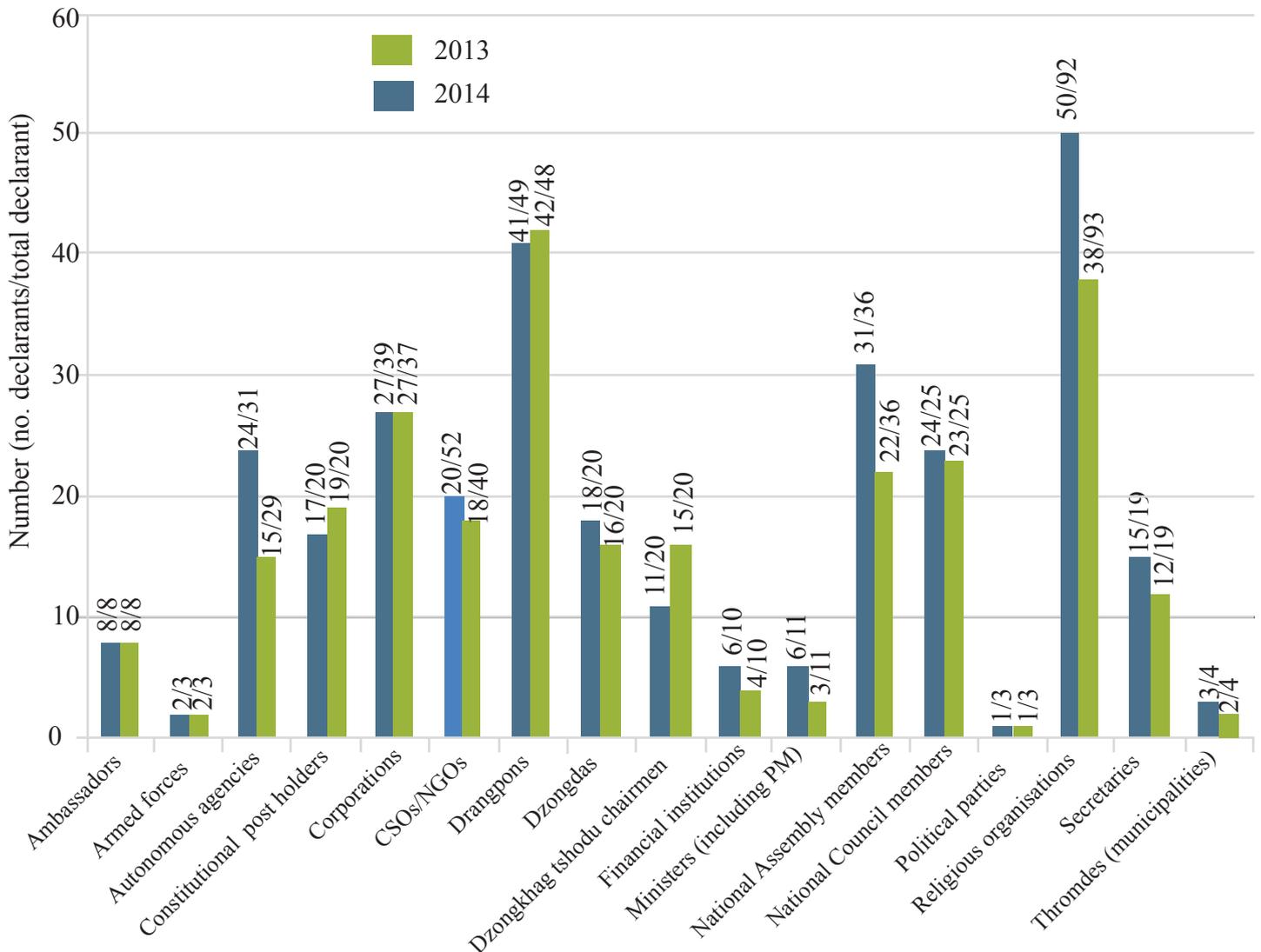
users over the years.

Schedule I

Compliance

As highlighted above, although AD compliance has been weak in the initial period of its enforcement compliance generally has been improving, in particular after the strict enforcement of AD Rules 2012 (refer Figure 4.4). The drop in 2010, 2012 and 2013 were mainly because of poor compliance of 205 gups (head of gewog) who then had to declare to the ACC and heads of religious organizations that are located in remote areas, who are ignorant of the AD Rules. Administering AD of the latter continues to be a challenge. The ACC has seized every opportunity to sensitize and educate them on the AD.

Figure 4.5: Compliance comparison of 2013 and 2014 for Schedule I declarants



A comparative of the 2013 and 2014 AD compliance by profession as of the last declaration day, March 31, is presented in Figure 4.5.

Total number of Schedule I declarants has increased from 428 in 2013 (declaration year being 2014) to 441 in 2014. Out of 441 Schedule I declarants, 304 (68.9 percent) filed their declaration within the declaration period of 1 February to 31 March 2015 (will increase by April 2015, grace period), an increase of 6.1 percent over last year’s compliance rate. All ambassadors have declared within 31 March 2015 and online. Heads of religious organizations continue to lag behind with only fifty (54.3 percent) out of ninety two having declared. While an improvement is seen in the timely declaration by most professional groups, that of the National Assembly members, heads of autonomous agencies and religious organizations is marked.

Electronic filing of AD was introduced in 2010 to reduce administrative burden of managing AD and for greater outreach at minimal cost. However, it still is not the preferred mode of declaration. Besides, inaccessibility to internet in rural areas, lack of IT knowledge and preference of conventional method of declaring are also some of the reasons impeding the e-declaration system.

Of 304 Schedule I declarants, only 239 (54.2 percent) and 21,000 Schedule II declarants have filed their declarations online this year.

This year’s other AD details will be presented in the next report as information will continue to flow in till the end of grace period, April 2015. As 2013 AD (last year’s declaration) compliance

was amply presented in the last report, only those areas not covered last year are presented here. The sixty-one Schedule I late declarants without reasonable justifications were imposed pecuniary penalty totaling Nu. 108,500.00/- and deposited in the Government revenue account.

Disproportionate Asset (DA)

The AD system flags declarants with DA. In the past, DA cases were handed over to investigation for further analysis since AD unit lacked human resource and investigative skills. Hence, in 2012, eleven cases of DA against Schedule I declarants were forwarded to the concerned sector in the ACC for investigation. However, no action has been taken because of backlog of cases. The National Council has desired a review of the status of DA cases.

Starting 2013, declarants were given the opportunity to justify their DAs. The process of review has been effective and the ACC has been able to drop most of the DA cases without having to investigate them. The system flags DA due to (i) increased assets; (ii) decreased liabilities; (iii) increased annual expenditure; (iv) increased current market value of assets; (v) incomplete information; (vi) negligence of declarants; (vii) typographical error; and (viii) others (e.g. system generated double booking – which is rare, declarants’ assumptions that system will automatically upload the information from the last declaration, etc.). All DAs go through the due diligence process of verification by the supreme team of ADAs in the ACC, whose recommendations are reviewed by an in-house committee and finally by the Commission that decides on the action to

Figure 4.6: Schedule I DA analysis in the reporting year

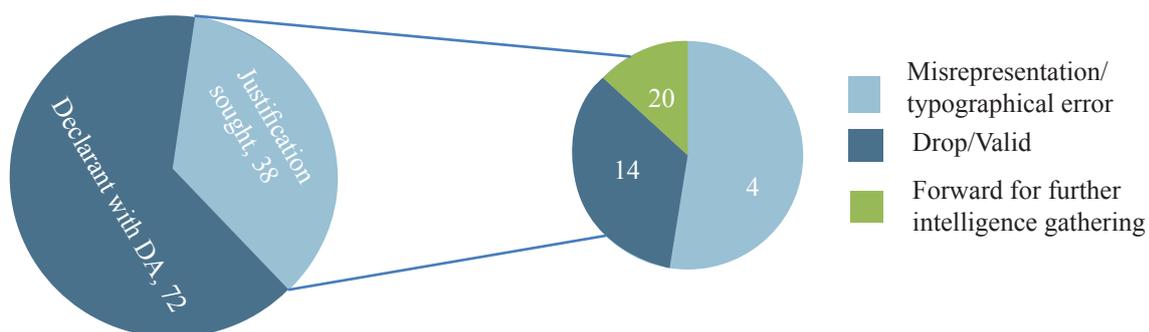
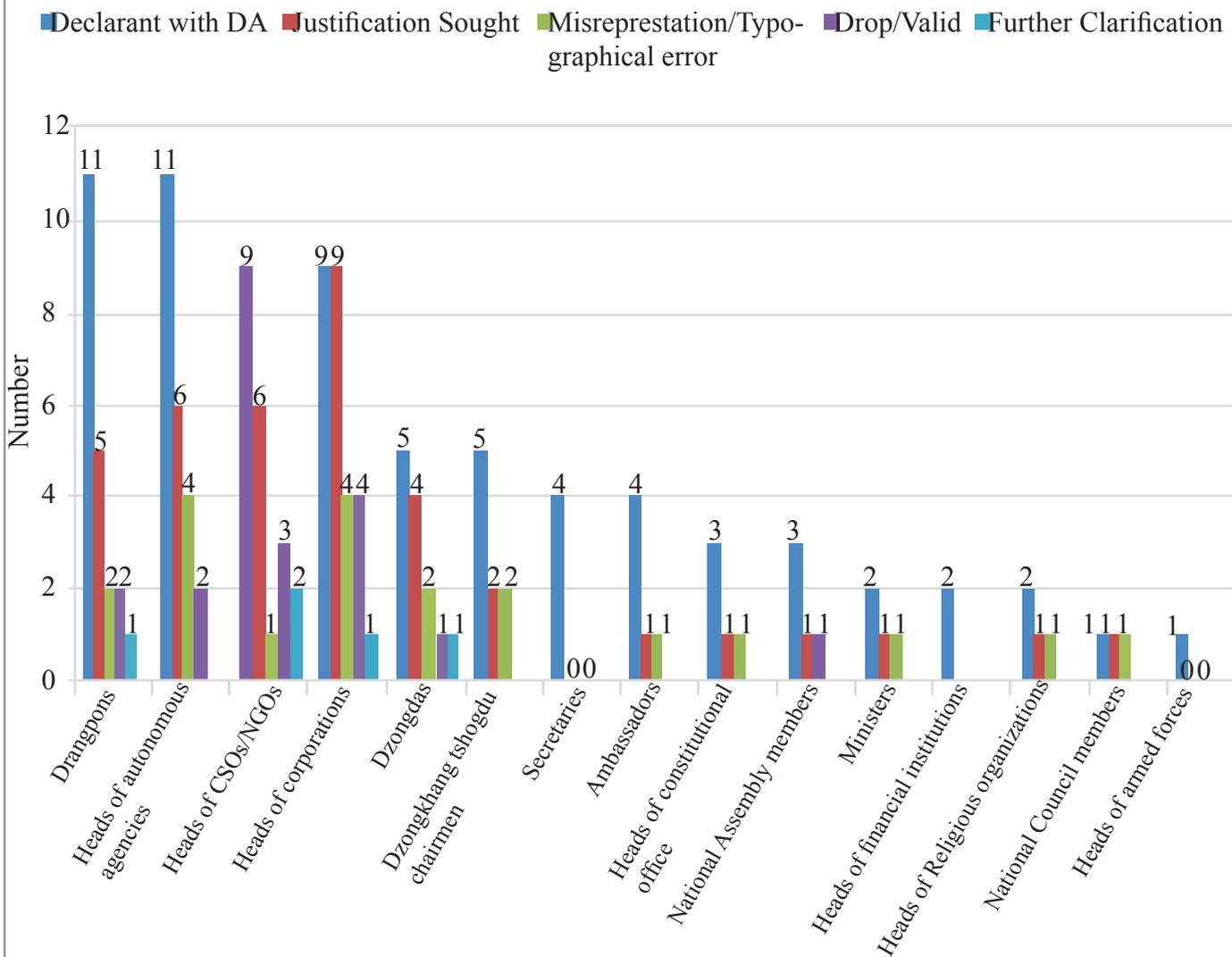


Figure 4.7: Professional-wise DA analysis in the reporting year



be taken.

Following the verification and review of the justification, the ACC (i) serves a notification letter to a declarant with DA to ensure proper declaration in future, if the causes for DA are inconsistency of information and typographical errors; (ii) drop if the cause(s) of DA is generated either due to increase in the market value of the assets or s/he has declared lump sum amount of value instead of disaggregate declaration of each source and if s/he was declaring for the first time; and (iii) review further, if cases warrant additional assessment.

During the reporting period, seventy-two Schedule I declarants were flagged as having DA. Detail of actions taken on DA is presented in Figure 4.6.

Thirty four were dropped (typographical errors

& oversight) and thirty eight were given the opportunity to justify/clarify the causes of DA. Out of the total justifications received, twenty were allowed to make corrections with notification of misrepresentation and advised them to avoid it in the future. Ten justifications were accepted as valid while four required further enrichment to be done in-house. The DA cases triggered due to the declarants’ negligence are recorded to monitor recurrence of behavior in the future.

Figure 4.7 gives the DA analysis by professional groups.

Schedule II

AD Report

The AD Rules 2012 requires agencies to receive, review and enforce asset declaration in their respective agencies and submit their AD report that

include non-declarants, penalty imposed on defaulters and DAs to the ACC for review. Failure to comply with the same penalizes both the head of agency and his/her administrator.

During the reporting year, 162 out of 168 agencies submitted their AD reports to the ACC on time while rest submitted late with reasonable justification. These agencies reported a total of 467 non/late declarants and 1818 declarants with DA. From the 1818 declarants with DA, 740 were given the opportunity to justify/clarity while remaining was dropped (typographical and oversight, which should have been checked by the agencies' AD administrator). Of the 683 justifications received, 680 cases were dropped while three cases required further clarification. Fifty seven declarants have failed to respond till date for reasons such as being on study leave, resignation and wrong address. Constant follow up

with agencies and declarants and review of DAs caused by negligence of declarants and lack of due diligence by the administrators takes a toll on the ACC's limited resources. In 2012, the AD was managed by just one person and 2013 and 2014 by two people.

A consolidated information on sanctions is presented in Table 4.3.

The actions taken on cases of DA for schedule I and II for last two years are presented in Table 4.4.

The ACC fully recognizes that smart public servants will never reflect accumulation of asset or liquidation of liabilities through illegal sources in their ADs. They will either disguise or never declare them, which the system will not flag. Therefore, lifestyle watch and intelligence gathering

Table 4.3: Penalties and DA

Compliance (Schedule I)		Failure to Submit Report	Disproportionate Asset	
Year	Late Declarants' Penalty Amount in Nu.	Penalty Amount in Nu.	Sch I (Nos.)	Sch II (Nos.)
AD 2011	30,000	-	71	551
AD 2012	89,900	996,329	42	460
AD 2013	108,500	-	72	1838
Total	228,400	996,329	185	2849

Table 4.4: Actions taken on DA

Category of Declarant	Year	Total DA	Dropped	Total Justification Sought	Further Action on Justification Sought		
					Dropped	Notification Sent	Further Clarification/Investigation
Schedule I	2012	42	3	39	0	28	11
	2013	72	34	38	14	20	4
Schedule II	2012	460	397	63	29	34	0
	2013	1818	1078	740	680	-	3
Total		2392	1512	880	723	82	18

are critical to detect illicit enrichment; being in a small society helps.

Implementation Challenges

The ACC has made huge investments in building AD implementation infrastructure, capacity development of ADAs on the AD system and its rules and its dissemination and sensitization. However, although AD compliance rate has improved over the years, the implementation and enforcement of the AD Rules is still a challenge. Declarants and agencies consider AD as an additional burden. Even when they declare, there is no due diligence but provides incomplete or wrong information. Frequent changes in ADAs, lack of proper handing and taking over of the ADs and report and ineffective communication between the head of the agency and the ADA are the inherent challenges. Even after nine years of implementing the AD, public servants still need to be reminded with constant follow-up, taking a heavy toll on the individuals working as focal persons within the ACC and in the agencies.

On a positive note, the RCSC, with the input from the ACC, is also reviewing HROs' ToR to imbed AD responsibility, among others. This will help mainstream AD system in the agencies' internal governance system. Further, AD compliance is an indicator of the performance agreements that the agencies sign with the Prime Minister.

Enrichment of AD Objective

Different countries have different objectives for the AD system. In Bhutan, it is for assessing illicit enrichment. However, with the increased public-private sector interface, CoI is becoming one of the key ethical issues in public and private management calling for a need to put in place robust measures to manage and resolve such conflicts appropriately. In order to help the public officials prevent CoI and to resolve such situations when they arise, the ACC is exploring avenues to incorporate CoI as another objective of AD. The review of ethics and integrity infrastructure in Bhutan and the workshops on CoI also highlighted the need to incorporate CoI in the AD. This may be done for the next AD.

Strengthening Legislative Framework

It is important that efforts on building national integrity systems are supported by strong legal frameworks provided by various legislations, rules and regulations, guidelines and codes. It is an essential part of strengthening systems to prevent and combat corruption in the country.

An update

Memorandum of Understanding

With one of the priorities set for the year 2014 in the area of collaboration and coordination for effective information sharing, the legal services drafted the MoUs to be signed with various entities (details covered in Section 4). The MoUs to be signed with the DCRC, DoI and DRC are yet to be finalized as the ACC still awaits comments from the partner agencies. MoUs with financial institutions and telecommunication service providers, namely, Bank of Bhutan Ltd. and RICBL, Bhutan Telecom Ltd and the Tashi Infocom Ltd. could not be executed due to limited information sharing capacity and the restrictions imposed upon them.

For effective implementation of the ACAB 2006 then and now ACAB 2011, the Act empowered/empowers the ACC to develop rules & regulations and policy & procedures on many provisions of the Act. Therefore, as provided by the Act, the ACC developed and implemented the following:

Asset Declaration Rules

In exercise of the powers conferred under section 127 of the ACAB 2006, the Asset Declaration Rules 2008 was drafted and revised in 2012 to make it more comprehensive and realistic. The ADR 2012 came into force on 9 February 2012 and is strictly enforced (details covered under AD).

Gift Rules

As empowered by section 133 of ACAB 2006, the Gift Restriction Rules 2009 was developed

prohibiting solicitation, restricting acceptance and setting procedures on disclosure of gifts. The Rules which came into force as early as on 5 March 2009 was revised in 2012. Weak enforcement due to lack of public awareness, weak monitoring mechanism and accountability necessitated the revision. The Gift Rules 2012 (now 2013 after further revision) will be further reviewed based on the comments received from the stakeholders and international experts; otherwise, it is ready for printing. It will be published before June 2015 and disseminated for strict enforcement.

Debarment Rules

The Debarment Rules 2009 was drafted for effective administration of debarment system which would debar individuals or entities who engage in corrupt practices from participating in government contractual transactions. The Rules was revised in 2013; it is yet to be enforced pending the effective operation of the multi-sectoral Debarment Committee, resident in MoF and served by PPPD. The ACC is represented in the Committee.

Further, for the purpose of dissemination of the Rules, PPPD in collaboration with CDB sensitized 2578 contractors and 179 dzongkhag procurement officers on the rules covering all twenty dzongkhags during the trainings conducted by the CDB for the group. They have also distributed the Rules to the dzongkhags.

Oath of Affirmation and Allegiance

Section 27 of the ACAB 2011 requires all the ACC staff to mandatorily take oath as may be prescribed by the Commission on first joining the institution and before assuming the duties and responsibilities of the office. The form and manner of oath of affirmation and allegiance was adopted by the Commission in August, 2012 but enforced only in March, 2015.

Public Service Model Code of Conduct (PSMCC)

The PSMCC has been developed in line with section 35 of ACAB 2011. It is one of the recommendations of Bhutan's UNCAC's Self-

assessment Report, which 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.

Implementation of the PSMCC is a part of NI-ACS 2014 - 2018 wherein awareness has been created among large number of stakeholders.

UN Convention against Corruption Self Assessment (UNCAC SA) Report

The UNCAC SA Report has been submitted to the Cabinet. The same will be presented to the parliamentary committees in preparation for the ratification of the UNCAC in the forthcoming parliamentary session. The SA report has once again been circulated to the stakeholders for their comments. Following the ratification of UNCAC, an action plan for the implementation of the report will have to be developed. Some key legislations need to be enacted, namely the Right to Information Act, Anti-Money Laundering Act and Forfeiture of Properties Act. At the same time, there will also be a need to revisit legislations and regulations that are obsolete and contradictory.

The ACC undertook the UNCAC SA task with the primary aim of using its findings and recommendations as the main source of information to strengthen the domestic legal and policy framework for preventing and combating corruption.

Anti-Corruption Service Rules and Regulations

As provided under section 27 of the ACAB 2006, the Anti-Corruption Commission Service Rules and Regulations 2007 was drafted. However, the Parliament having aligned ACAB 2011 with the Civil Service Act of Bhutan, 2010, the Rules stands null and void for now.

Guidelines

For the effective and efficient functioning, the ACC has developed and adopted a number of Policy and Procedures Guidelines. These include: Guidelines on Cooperation in the Investigation

and Prosecution of Corruption Offence in the Private Sector, which was signed between the ACC, OAG and RBP on March 9, 2015. It has also been submitted to the Royal Court of Justice. The Guideline also covers bilateral cooperation between the ACC and RBP.

Prosecution Referral Guideline

As per Article 27.5 of the Constitution of the Kingdom of Bhutan and section 128 (1&2) of the ACAB 2011, the ACC is required to refer corruption cases to the OAG for expeditious prosecution. To bring these provisions into effect and to ensure that the ACC is accountable, consistent, transparent and objective in its referral decisions, the Prosecution Referral Guideline was adopted in March, 2011. Prompted with the rejection of the Gyelpozhing land case by the OAG, the ACC reviewed its Prosecution Referral Guideline 2011 in pursuance of the safeguards provided under section 128(3) of the ACAB 2011. While this section empowers the ACC with prosecutorial powers, transparent and rational policies and guiding principles on prosecution is imperative. The revised prosecution guideline includes the best practices of other countries; it awaits the Commission's endorsement.

Disciplinary Referral Guideline

Section 137 of the ACAB 2011 requires the ACC to make disciplinary referral in case of administrative nature to the concerned agencies. As such, the Disciplinary Referral Guideline has been drafted which is also pending the Commission's endorsement.

Suspension Guideline

With the challenges faced while suspending the public officials involved in the Gyelpozhing land case, the Suspension Guidelines was adopted as per the directives of the Supreme Court and the provisions of the ACAB 2011. The Guideline is apart of the ACC Operation Manual.

Bail and Bond Guidelines

The Guideline has been finalized as a part of the ACC Operation Manual. However, clarification needs to be sought from the Royal Court of Jus-

tice in finalizing the bail and bond agreement as it is also a part of the court's proceedings as per the CCPC.

Other Guidelines

As part of operationalizing of the ACAB 2011, guidelines on Prioritization of Cases, Witness Protection and Prosecution Immunity and the Disciplinary and Inquiry Guidelines for the Commission have also been drafted.

Anti-Corruption Act of Bhutan

The Anti-Corruption Act of Bhutan 2006 (ACAB 2006) was the first legislation on corruption enacted in the country. It was amended to the ACAB 2011, an important outcome of the UNCAC SA exercise. The amendment was part of the ACC's efforts to make corruption a high risk and low benefit venture as a first step towards deterring it. Together with the amendment of the ACAB 2006, other laws such as Penal Code of Bhutan (PCB) and the Civil and Criminal Procedure Code of Bhutan (CCPC) were also amended to harmonize the provisions of the laws on corruption.

Lamtoen Kaja (directive) based on Court Verdicts

The ACC has received a number of directives from the courts relating to its powers and functions in the process of investigating and prosecuting corruption cases. Courts issued these directives under the following circumstances: (i) where there were inconsistencies or disagreement in the application of the provisions of the particular laws; and (ii) where lacuna existed when the existing laws did not cover the required provisions.

The court directives are:

In Gyelpozhing Plot Allotment Case

Issued by High Court

- Procedural aspects of the ACAB can be applied retroactively (nullifies Wangdue Dzongkhag Court's judgment of general inadmis-

sibility of retroactive application of ACAB 2006 in Phobjikha land case);

- The ACC has locus standi to prosecute in accordance with section 128 (3) (b) of the ACAB 2011. However, the ACC cannot prosecute all the cases referred back or withdrawn by OAG without valid reason supporting the elements under section 128 (3);

Issued by Supreme Court

- The ACC shall have the power to unilaterally suspend officials during investigation for a maximum period of twelve months in cases involving civil servants / appointees and ninety days for elected officials;
- Suspension orders under the ACAB section 167(2) must be discretionary and not mandatory in its application. A Competent Authority must be engaged in executing the administrative responsibility of ordering suspension in consonance with the principle of administrative law, natural justice and procedural due process;
- The administrative decision of the Competent Authority is thereafter, subject to judicial review if moved either by the ACC or the individual affected based on the right to appeal within ten (10) days of the communication of the decision to suspend or not to suspend by the Competent Authority to ACC or issuance of the suspension order respectively;
- Any official charged must seek their own private Jabmis to defend themselves in a case and can appear in court only as a witness or if summoned by the court. If the officials desire to attend court, they must do so at their own expense. The resources of the State cannot be used to attend court in the matter related to adjudication of a case charged in an individual capacity with no correlation to official function;
- The elected officials being suspended for acts committed prior to their election to the current position will be detrimental to public welfare. Suspension may be justified but its mandatory application for indefinite period

will raise issues of due process, equal protection and presumption of innocence. If the ministers are acquitted, it will not only nullify his right to hold office but will also cause injustice on the people of their constituency who would be deprived of the services of the ministers they have elected to serve as members of the Parliament; and

- As long as there are enacted laws penalizing criminal or corrupt acts when the offences were committed, it does not amount to retrospective or ex-post facto application of criminal law. A crime remains a crime despite the passage of time.

In Samtse Mining Case (all issued by Supreme Court)

- Possession of unexplained wealth is not necessary to prove corruption if the act itself is proved beyond reasonable doubt;
- When the substantive right of the State to maintain law and order or uphold the rule of law (including combating/suppression of corruption) is pitted against the procedural rights of the accused, the former must prevail for the preservation of society;
- The limitations on *Namchet Zeyrim* (Lawful Proceeding) are:
 - Amongst the evidences collected by the investigating agencies, relying on evidence collected illegally, the defendants aiming at one's own advantages cannot cancel the other lawfully collected evidences;
 - Generally, evidence obtained through illegal search is not acceptable. However, while determining by the courts, the court may permit submission of such evidence if the same is found to be credible while conducting lawful search;
- Legitimacy of the ACC officials examining the accused/witness along with the OAG:
 - The ACC officials have the power to ex-

amine the witness/accused along with the OAG as per section 84 of the ACAB 2011 under one condition that the OAG officials have asked assistance from them;

- Section 78 of the CCPC of Bhutan 2001 provides for unauthorized person, wherein it states that no person unless otherwise authorised by the court shall have the right to address the court or examine the witness;
- Section 25, functions of the Commission, (c) advice and assist any person, on the latter's request, on ways which corruption may be eliminated by such person; and
- Section 25, functions of the Commission, (h) any other functions which in the opinion of the Commission may be necessary for the prevention of and fight against, corruption in the opinion of the Commission. Any other functions which in the opinion of the Commission may be necessary for the prevention of and fight against, corruption in the opinion of the Commission.
- Detention of 93 days:
 - As per the section 191.1 (b) of CCPC, the Government can detain any person for 108 days; and
 - The jurisdiction of bail is to be considered as per the necessity of law and cannot be considered as natural right.

Nyisho Gup's Case (Issued by High Court)

- While framing charges against the defaulters it is important that, we frame it against all of them. In case we frame charges against few and leave the others, it will create problems (ACC may not agree to it in this particular case but it is a useful reminder as a general principle).

Education Case (Issued by High Court)

- Individuals convicted of a crime can be subjected to administrative actions and shall not amount to double jeopardy. Agencies can impose administrative sanctions for the same

actions that lead to criminal convictions.

The ACC has made conscious efforts in operationalizing and enforcing the ACAB 2011. While there is a modestly effective legal framework, it demands a correspondingly strong and effective legal service unit in the ACC, which is not the case now. As submitted in the past, the ACC will continue to work on getting senior and experienced lawyers, groom the young lawyers and explore the possibility of having resident prosecutors as in the case of some countries.

Having reached out to over one third of the citizenry, a huge social capital has been created. It is a critical resource. There are also strong systems and networks in place but they are as good as the quality of the people managing them. Weaknesses in the systems are public knowledge; tools are in plenty to identify measures to address the weaknesses and to implement them sustainably in total sincerity. With such resources including the advantage of being small, public service culture has to be very different from what it is now.

The public service culture where right is not right because no one does it and wrong is not wrong because everyone does it has to change. A young civil servant who joins service must first learn to serve his/her clients with courtesy, without delay and discrimination fully appreciating the fact that s/he is there because of them; s/he must seek to be the best. S/he must not see corruption as an opportunity to make fast money or as a way of life; s/he must resist, refrain and report it. Change has to begin and fast, led from the top through ethical leadership, staff integrity and systems integrity. Unless, public servants are demanded to perform with integrity and corruption prevented, public trust in the Government will continue to wane and self-reliance, balanced development and inclusive growth, the cornerstone of Bhutan's development agenda, will remain a mirage.

Section 5

BREAKING MENTAL BARRIER IN PUBLIC PROCUREMENT MANAGEMENT TO SECURE "VALUE FOR (PUBLIC) MONEY"

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Section 5

BREAKING MENTAL BARRIER IN PUBLIC PROCUREMENT MANAGEMENT TO SECURE “VALUE FOR (PUBLIC) MONEY”

Public procurement is also commonly known by government procurement or public tendering. State entities are the primary buyers of works, goods and services in Bhutan. On average, countries spend between 15 to 30 percent of their GDP on procurement (Source: TI). From the 11th FYP budget outlay of Nu. 213 billion, Nu. 92 billion is for capital expenditure, out of which Nu. 84 billion is for works alone. As procurement is more than construction, taking capital expenditure as the budget for procurement and GDP as Nu. 104.38 billion (2014), Bhutan may be spending around 17.6 percent of GDP on procurement annually.

The national level budget allocation does not include mega projects. Ten hydropower projects have been identified for harnessing 10,000 MW by 2020 of which four are under construction with a total (revised) cost of Nu. 222.5 billion (Source: DGPC). This cost is more than two times the country's 2014 GDP. 213 percent of the country's GDP. Two are in the process of being implemented. Further, there are two Road Network Projects (RNP) (RNP I & RNP II), with a total cost of Nu. 5.521 billion (US\$ 88.62 million) (Source: Department of Roads). The northern east-west national highway will be widened for double-lane traffic with an estimated cost of more than Nu.7.0 billion.

In some dzongkhags, according to the Ministry of Finance's records, expenditures on procurement consume 40-45 percent of the annual budget. Bhutan, being a land-locked developing country, has to spend a huge proportion of its resources on infrastructure development for better delivery of services to her citizens and to unlock economic prospects.

The project-tied expenditures outside the 11th FYP will push the procurement spending well beyond the 30 percent limit of many countries. Where such huge resources are involved, risk of corruption, lack of due diligence and wastage are

correspondingly bigger. In the last nine years, the ACC received 533 complaints on public procurement (13.16% of the total complaints) (317 works and 216 goods & supplies), the third highest after resources and land.

It is imperative that effective anti-corruption polices, strategies and due diligence measures are integral to public procurement, including the mega projects. It is also important that tender documents are professionally prepared with comprehensive and clearly stated terms and conditions that are strictly and indiscriminately enforced during the implementation stage. Corruption in public procurement was substantially covered in the 2012 report.

Principle of Procurement

Procurement is based on the fundamental principle of “value for public money”. A lay person's definition of “value for public money” is simply getting the public money's worth in every purchase. According to business dictionary.com, “value for (public) money” is defined as, “a utility derived from every purchase or every sum of (public) money spent. “Value for public money” is based not only on the minimum purchase price (economy) but also on the maximum efficiency and effectiveness of the purchase”. Efficiency is “the comparison of what is actually produced or performed with what can be achieved with the same consumption of resources (money,time, labor,etc.). It is an important factor in determining productivity”. Effectiveness is “the degree to which objectives are achieved and the extent to which targeted problems are solved. In contrast to efficiency, effectiveness is determined without reference to costs and whereas efficiency means “doing the thing right,” effectiveness means “doing the right thing.”

(Source: <http://www.businessdictionary.com/definition/effectiveness.html#ixzz3OrCpMQYs>)

In real life practice, there is an innate understanding of “value for money” by every sensible person. There is a universal appreciation and understanding that “value for money” must be the ultimate outcome in private procurement activity, even when it is for everyday small personal items. Even though procurement is seen as something complex and unfamiliar, in essence, every person with common sense has the innate ability to know one’s money’s worth. This same understanding of the principle of procurement and its application in public procurement for big projects is conspicuously absent. “Value for money” and quality are squandered in trying to secure ‘paper’ requirements, managing time constraint and trying to achieve the time-bound physical targets. Often it is observed public money for big projects is spent without the required prudence that one would exercise if it were one’s personal resource. It is a common observation that publicly procured works, goods and services are more expensive and generally of poorer quality.

Procurement Process

For big public procurement, open competitive bidding process is adopted as the means to secure the “value for public money”. There are other means of procurement like direct purchase and limited quotations for small procurements. Open competitive bidding may be done through National Competitive Bidding (NCB) and International Competitive Bidding (ICB) processes. NCB is conducted based on national procurement and other applicable rules. ICB is essentially an NCB based process where national rules are adapted to fulfill project specific needs of big projects where international bidders participate.

Open competitive bidding is adopted to capture market efficiency. In free markets, prices adjust to a certain level as a result of interplay of competing market forces. Further, open competitive bidding process offers equal opportunity and access to all legitimate firms to participate.

Acts, rules and regulations provide the frameworks within which procurement processes are to be conducted. Standard Bidding Documents (SBD) with General Conditions of Contract (GCC), Special Conditions of Contract (SCC),

Instructions to Bidders (ITB) and Bidding Data Sheet (BDS) must align with the existing legal frameworks. Certain flexibility is allowed in framing SCC to serve project specific needs. However, careful judgment must be exercised to ensure that conditions in SCC do not contradict GCC. If SCC framed to meet specific project needs is contrary to GCC, GCC may be amended with legal advice from the competent authority. Acts, rules and regulations must collectively support securing “value for public money”, which is the ultimate outcome of public procurement. Legal frameworks must be used as means to the end of securing “value for public money”. Enforcement of legal provisions as an end does not serve any purpose if “value for public money” is not secured in the process. Hence, it is important to interpret legal provisions in harmony rather than in isolation in a narrow, mechanical or literal sense.

Procedural Safeguards

Open competitive bidding process brings together people and money in a competing market environment. Such an environment is vulnerable to manipulation, fraud and corruption through collusive practices. Therefore, public procurement process requires safeguards to prevent collusion and other malpractices.

Bench-marking, due diligence and transparency are the procedural safeguards to be exercised in public procurement. Bench-marking is price-referencing, knowing the market price, understanding the reasonable price and deciding whether the price offered is reasonable. A lay person goes from one shop to another, enquiring price of an item to be purchased before s/he finally buys that item. This is the simplest, but quite effective practice of bench-marking carried out by individuals for their private purchases.

Due diligence is being systematic in approach, exercising appropriate caution at every level, at all times, leaving nothing to chance (exhaustive) and taking issues to logical conclusions. For example in bench-marking, if there were five information sources to determine the price of a particular item, all of them must be examined and considered. Looking into just a few of them and

leaving out what appears to be trivial sources is not due diligence. Due diligence measures against opportunity to miss vital information from the remaining sources are not exhaustive.

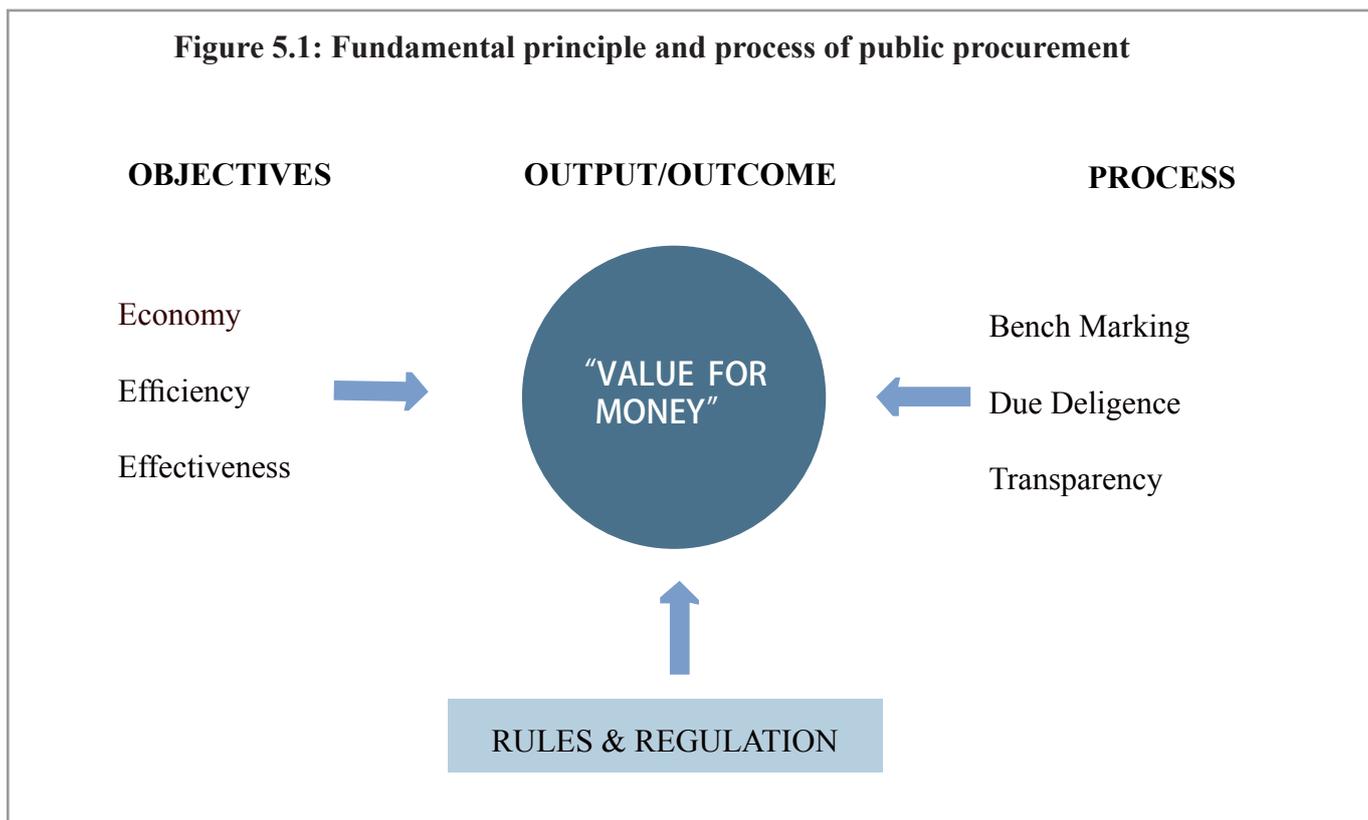
Transparency is conducting the public procurement activity in an open manner, open to discussion, open to scrutiny, open to queries, while maintaining integrity and confidentiality of information if required by due process and laws. In

support securing the “value for public money”.

Relevant Provisions from Procurement Rules and Regulations 2009 (PRR 2009)

The PRR 2009 has provisions that encourage due diligence measures to be exercised. These provisions are found in detail examination and screening of bids in clause 5.4.6 under Rejection of

Figure 5.1: Fundamental principle and process of public procurement



general, there should be nothing to hide. However, access to information must avoid asymmetry at all cost as it will undermine level playing field among bidders (refer Figure 5.1).

In practice and application, all three safeguards converge as due diligence measures. Benchmarking and transparency are due diligence measures on process, price and information. If due diligence measures are exercised as required by the nature of projects, “value for public money” will invariably be secured and the need to enforce legal provisions become less compelling. On the other hand, if due diligence measures are neglected and emphasis is on enforcement of legal provisions, “value for public money” will be at stake and rules become the end in themselves. It is found beneficial to focus more on due diligence measures and let rules play subsidiary roles to

Bids. The four conditions that must be applied in detail examination and screening of bids as given in clause 5.4.6.1 are reproduced below:

- a Bids being found not responsive as specified in the SBD;
- b All bid prices substantially exceeding the estimated cost;
- c Any or some of the bids appearing to have been tampered with;
- d The rate analysis submitted for the abnormally low bid is not acceptable to the client.

Substantially responsive bids that have qualified for detail evaluation must be examined and screened against the above four conditions. While screening the bids, the most important objective is to determine reasonable bids from among many of them. The need to determine

reasonable bids requires that the four conditions be applied in harmony and in correct sequence. With these stipulations, provisions (b) and (d) must be applied as the first test through vigorous bench-marking of prices of major items of work. Bench-marking must be done, as much as possible, through rate analyses for real-time and real-place prices. Benchmarking with due diligence can ascertain reasonable prices of items to an acceptable degree of accuracy, which will be adequate to take decisions. Reject those bids that fail to fulfill conditions imposed by provisions (b) and (d). PRR 2009 confers authority to procuring agencies to reject bids that are abnormally low and/or substantially exceed the estimated cost. Bids that appear to be tampered with must be rejected after confirmation of such faults and excluded from detail evaluation.

Remaining bids after screening and rejection offer the “value for public money” as prices are determined to be reasonable through proper benchmarking. These bids, starting from the lowest must be examined by applying conditions specified in SBD. While doing so, utmost caution must be exercised before each lowest bid is rejected for deviation from the conditions specified in SBD. It is because the lowest bid is determined to be reasonable and its rejection for not fulfilling ‘paper’ requirements may be defeating in purpose. Hence, flexibility must be allowed in providing documents and other conditions required through use of clarification clauses. While allowing such flexibility, three criteria must be examined and carefully considered before taking the final decision.

The three criteria tests must be on:

- Principle of proportionality: Do you reject a reasonable bid for not fulfilling a certain ‘paper’ requirement or secure it through use of clarifications? Can you forgo millions in terms of price difference or secure that requirement in the project’s interests?
- Principle of no material deviation or reservation: Does offering an opportunity for providing/securing conditions or requirements undermine fairness, equity or project interests? Offering opportunity to fulfill conditions in the project’s interests to the lowest bidder has

no material deviation or reservation.

- Principle of securing project interests for implementation: Offering opportunity to fulfill conditions must be in the project’s interests during implementation. Once such conditions are fulfilled, they must be included in contract agreements and enforced without exception during implementation.

The sequence of screening is important. Benchmarking of cost must ascertain that the offer is reasonable and has “value for public money”. By virtue of being reasonable offer, flexibility in providing or fulfilling conditions must be given. Once satisfied and accepted, such conditions must be incorporated into the contract agreement and enforced during implementation. On the other hand, offering flexibility irrespective of reasonable offer is not procedurally correct. Rejecting reasonable offer ascertained through benchmarking is counterproductive to “value for public money”. Careful examination and consideration of these criteria will lead to rules/provisions being used as means to the end of securing “value for public money” and not casually used as an end to reject reasonable bids.

Public Procurement Process in Practice

In general, public procuring agencies largely fail to follow due diligence measures required by the nature of public procurement. Benchmarking to determine reasonable price is not done to screen bids. Instead, rules and criteria are flaunted in rejecting bids, discarding competitive bids for failing to fulfill ‘paper’ requirements. On the other hand, those very requirements and conditions fulfilled by a bidder on “paper” which formed the basis for the award of contract to the bidder are breached, not enforced during the implementation and no penalty levied because invariably there is no such clause in the contract terms and conditions. A multilateral agency defined the Government’s procurement process as ‘tight and loose’ system. It is ‘tight’ on ‘paper’ requirements, but ‘loose’ on enforcement during implementation of those conditions which were the bases for contract award. This highly flawed management of public procurement has defeated securing the outcome of procurement in terms of “value for

money” and quality. Instead, it perpetuates the never ending cycle to ‘build/purchase’, ‘repair’ and ‘build/purchase’ all over again, involving huge costs to the State and the citizens.

Case Study

ORIO Project- Dalbari-Dagapela Secondary National Highway

The construction, operation and maintenance of 80.58 km Dalbari-Dagapela Secondary National Highway is a road network project to connect Lhamoizingkha Dungkhag in the foothills to the mainland through Dagana Dzongkhag. It consists of construction of 59.36 km road from Dalbari to Geserling and improvement of 21.22 km existing road from Geserling to Dagapela. It is financed by a 50 percent grant from the Netherlands channeled through ORIO (The Facility for Infrastructure Development funded by the Ministry for Development Cooperation to encourage public infrastructure development in developing countries) and an equal sum from the Government. The work is packaged into three, namely Sections A, B and C, for ease of contracting purpose.

Section A is the construction of 29 Km of road and two bridges. The estimate for the work is Nu. 542,115,601.02. The contract was awarded to the lowest bidder, M/s. Kalika Yangkhil JV at Nu. 355,456,712.09, which was 34 percent below the estimate. The second lowest bidder was M/s Tundi Construction Private Limited, Nepal, at Nu. 400,214,845.00, with 26 percent below the estimate.

Section B is the construction of 20 km of road and three bridges. The estimate for the work is Nu. 472,018,929.26. The contract was awarded to the second lowest bidder, M/s. Tundi Construction Private Limited, Nepal at Nu. 376,583,277.07, which was 20 percent below the estimate. The lowest bidder, M/s. Kalika Yangkhil JV, at Nu.323,055,405.01, which was 32 percent below the estimate was not awarded the work since the firm had already been awarded Section A.

Section C is the construction of 10.36 km of road

and up-gradation of 21.22 km existing road. The estimate for the work is Nu. 413,632,490.51. The contract was awarded to the third lowest bidder, M/s. SPML Gaseb JV at Nu. 356,322,414.50, which was 13.9 percent below the estimate. The lowest bidder, M/s. Rinson Jai Prakash JV, at Nu. 335,693,199.00, which was 18.9 percent below the estimate was disqualified during the detail evaluation. The grounds for disqualification were:

- i. Failing to furnish Bank Guarantee (credit line) with figures;
- ii. Failing to furnish Bank Reference letter for their financial resources to meet 40 percent of the concurrent works; and
- iii. Failing to fulfill key personnel requirements.

The Ministerial Level Tender Committee (Committee), under the chairmanship of the Secretary, three Directors of Departments, two Chiefs of Administration and Finance Division, Ministry of Works and Human Settlement awarded the contracts.

Due Diligence Failure in Screening Bids

The third lowest bidder was awarded the contract for Section C. The evaluation committee found the lowest bidder substantially responsive and was included for the detail evaluation. However, the firm was disqualified for failure to fulfill financial and personnel requirements during the detail evaluation. As a result, the Government incurred a loss of Nu. 20.629 million, difference between the lowest and third lowest bidder. The ICB World Bank process, mode of procurement used had elaborate clarifications clauses. The financial and personnel requirements could have been secured through use of these clarification clauses in the interests of project implementation. As reasonable price was not the award criterion, other conditions of contract had superseded award decision.

The case study is self-explanatory on pitfall of serious mistakes if the priority of bid evaluation is wrong. In the case study, bench-marking of bids for reasonable price was not the priority for contract award. Instead, other conditions of contract,

which would bring fringe benefits to projects were accorded undue prominence. Hence, the contract was awarded without consideration of price, which under close scrutiny reveals shortcomings, incurring huge costs to the exchequer.

As also experienced in this case, delay in taking timely decisions in correcting the flaws will also cost the exchequer hugely. All concerned authorities had the opportunity for damage control by taking the right decision at the right time.

This is not an isolated case but typifies public procurement administration. The country has lost huge resources due to such practices, continues to lose and will continue to lose if interventions are not made consciously and urgently.

Discriminate contract award at huge costs to the public stems from the mind-set devoid of appreciation for “value for money” in public procurement. As “value for money” has no meaning, public procurement is merely seen as purchases following rules, irrespective of what is secured in exchange for the money spent. If this mental barrier is to be demolished, deep understanding of procurement must be developed and practiced. In the process, need for due diligence measures must be nurtured and rules must be seen in the right perspective of securing “value for money”. Strategic emphasis on real-time and real-place bench-marking for reasonable price through rate analyses, appropriate due diligence as required by the magnitude of contracts and strict enforcement of conditions, will save millions of exchequer’s money. It is time that all procuring agencies make conscious efforts towards achieving excellence in public procurement in long term public interests.

The Prime Minister’s State of the Nation Report, 2014, states, *“Corruption inhibits good governance and poses a major threat to our social and economic development where the poorest suffer the most. It undermines the economy, the social fabric of our society and the credibility of the country. The government, therefore, is resolved to make a sustained and unrelenting fight against corruption and support the efforts of the Anti-Corruption Commission. To begin with, I have already directed the Ministry of Works & Human Settlement (MWHS), the Construction Development Board and the Contractors to sit together and see how we can root out corruption in the construction sector, which has been resulting in substandard quality of material being supplied and inferior quality work. I have asked them to come up with specific recommendations”*. The MWHS was supposed to submit a report to the Government.

The Ministry of Finance, as the competent authority on procurement, has to build its professional capabilities to provide timely and appropriate guidance to all stakeholders and to decide firmly when warranted. If the Ministry closely studies a random sample of procurement of goods, services and works, huge cost to the exchequer, among other costs and weaknesses will be revealed. These should prompt interventions including effective accountability systems to strengthen the public procurement system, which otherwise has had numerous consultancies and generous assistance from development partners. As highlighted in Section 4, the ACC has identified public procurement as one of the five research areas. Stakeholders will be engaged in the activity.

Section 6

COMBATING CORRUPTION

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Section 6

COMBATING CORRUPTION

Combating corruption is one of the core mandates of the ACC as empowered under section 24(d) of the ACAB 2011. As submitted in the earlier reports the three primary mandates, which used to be delivered by the respective divisions in the ACC have been consolidated with the adoption of the sectoral approach in February 2013. Under the new approach, sector teams deliver the three services in an integrated manner. The thematic sectors are, Procurement & Construction, Human Resource Development and Management, Land & Natural Resources and Business & Finance. Sectors such as Social & Political and Miscellaneous are yet to be established due to human resource constraint. The sectoral approach is more practical and conducive to develop and implement sector-specific anti-corruption strategies in an integrated manner to deal with investigation and prevention mandates for the overall promotion of institutional integrity in agencies.

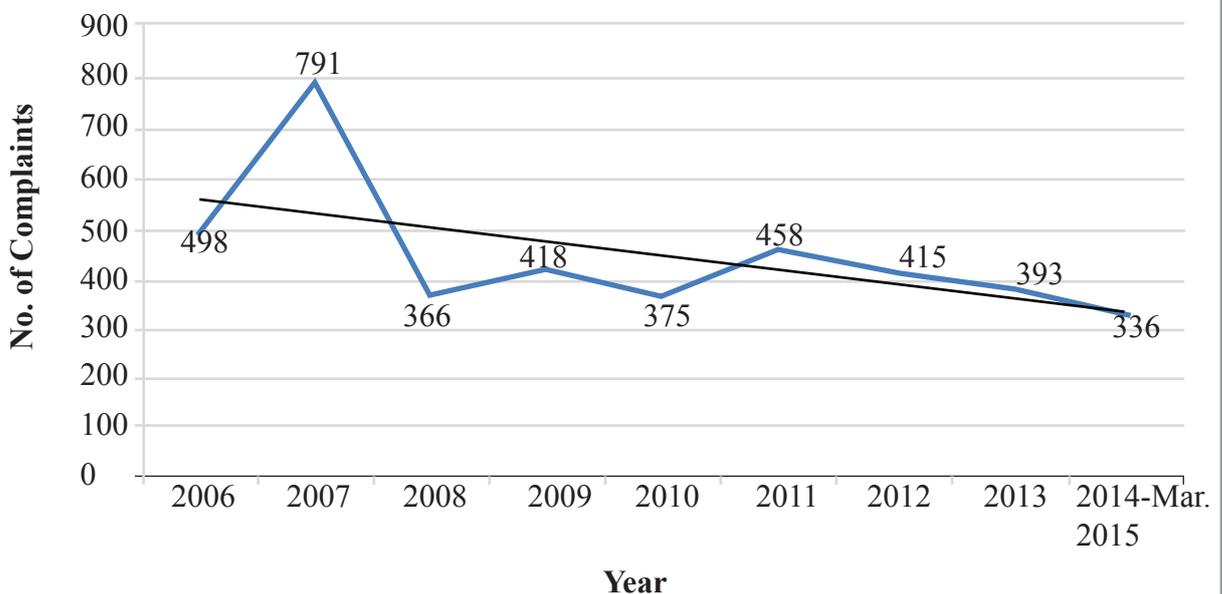
This section covers details of all complaints, received, managed and investigated by the ACC from 2006 to 25 March 2015. The purpose is to take stock of the results of the current Commission's efforts in investigating corruption during its tenure. However, the analysis of complaints

and cases are not presented in sectoral approach since sectoralization was implemented from 2013 only. The section also highlights a few case studies, which bear national significance. Unlike in the past, investigation challenges are consolidated in Section 7.

Complaints

One of the principal functions of the ACC as provided under section 25.1(f) of the ACAB 2011 is to 'receive and consider any complaints of the commission of an offence under the Act lodged with it by a person or authority and investigate such complaints as the Commission considers practicable'. Figure 6.1 shows the total number of complaints received from 2006 till March 2015. The ACC has received on an average 450 complaints annually, highest being 791 in 2007 and lowest being 336 in 2014. The number of complaints over the years shows a declining trend. This may be due to constant efforts of the ACC on public education on corruption thereby improving quality of complaints or because of the time that the ACC takes in responding to the complaints. This may also be indicative of reduction of corruption in the country brought through

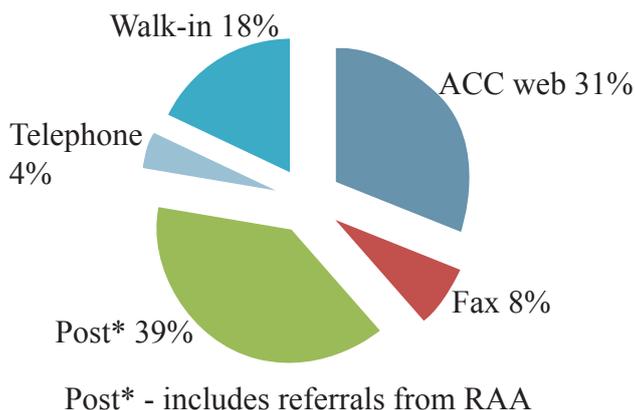
Figure 6.1: Total number of complaints received from 2006 to 25 March 2015



the three-pronged strategies of investigation, prevention and education, which may not be the case at the perception level.

For effective investigation, an effective complaints management system to attract quality corruption reports as well as to deter frivolous complaints is a pre-requisite. The ACC has been managing complaints in accordance with the Complaints Management Policy and Procedures Manual. The ACC receives complaints, both known and anonymous, through telephone, fax, post, website and walk-in. The complaints are registered and evaluated using a software system. Figure 6.2 shows the percentage of complaints received through various modes over the last

Figure 6.2: Percentage of complaints received through various modes from 2006 to 25 March 2015

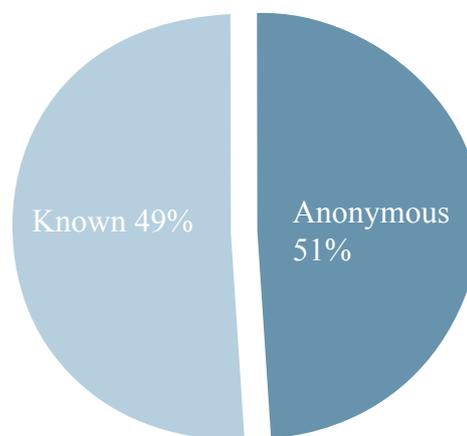


nine years. The predominant mode of complaints is through post, making up about 39 percent of all complaints received. In the reporting year, 134 complaints were received through post, which is about 40 percent of the total 336 complaints.

The complaints through post also include referrals from RAA that are referred to the ACC when there are suspicions of corruption offences. During the period 2006 to 25 March 2015, the ACC received a total of 85 such referrals constituting 2.10 percent of the total complaints. Out of this, 34 qualified for investigation, 36 were shared with agencies and 15 (which had no corruption elements) were referred back to RAA. Out of the 34 that qualified for investigation, 18 were referred for prosecution, 13 were shared with agen-

cies for administrative actions and 3 are pending investigation. Overall, out of the 85 referrals, 63 have been brought to their logical conclusions and closed, 15 have been dropped, 3 are pending investigation and the rest 4 are at various stages of prosecution. 30 individuals were convicted of corruption charges and administrative sanctions were imposed upon 56 individuals.

Figure 6.3: Percentage of anonymous and known complaints (2006 to 25 March 2015)



Known Vs Anonymous Complaints

From the total of 4050 complaints received over the last nine years, 51 percent were anonymous and 49 percent were from known sources (refer Figure 6.2). During the reporting period, known complaints were 68 percent of the total 336 complaints, an increase of 15 percent from the previous year. The growing trend of known complaints may indicate public trust in the ACC.

Complaints by Type of Corruption

Figure 6.4 categorizes the complaints received in the last nine years under the corruption offences described in chapter 4 of the ACAB 2011.

Biggest number of complaints (27 percent of the total complaints) was abuse of functions by public servants in positions of power followed by embezzlement (16 percent). Public servants are perceived to be performing or omitting to per-

form an act amounting to favoritism, nepotism or patronage in violation of laws, in discharging their functions to obtain advantage for themselves or for another person or entity. In comparison, the complaints on bribery were very minimal (7 percent), which either may indicate that outright

bribery is not a common feature in the country or as the bribe giver bears greater criminal culpability than the receiver s/he does not dare complain. The qualification of this finding that may put things into better perspectives is that bribery is very difficult to prove. Besides, public service culture is such that service recipients are compelled to pay subtle bribes such as gratification, hospitality, expensive birthday gifts, “lend money” and “buy mobile phones, tablets, etc. on reimbursement basis”. Public servants may not solicit outright bribe but create conditions for subtle forms of bribery. The category ‘Others’ were those complaints that did not constitute corruption offences, per se but were means to corrupt acts such as deception, coercion, forgery and collusion. Almost half of the total complaints received over the past nine years were not corruption offence that indicates the need to make constant efforts in raising public awareness about corruption offences. On the other hand, this could

Figure 6.4: Percentage of types of complaints received from 2006 to 25 March 2015

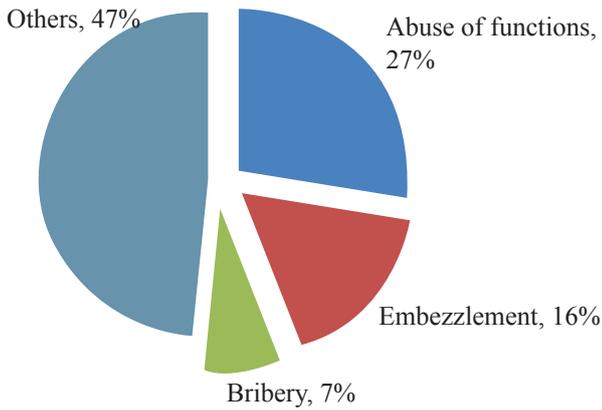
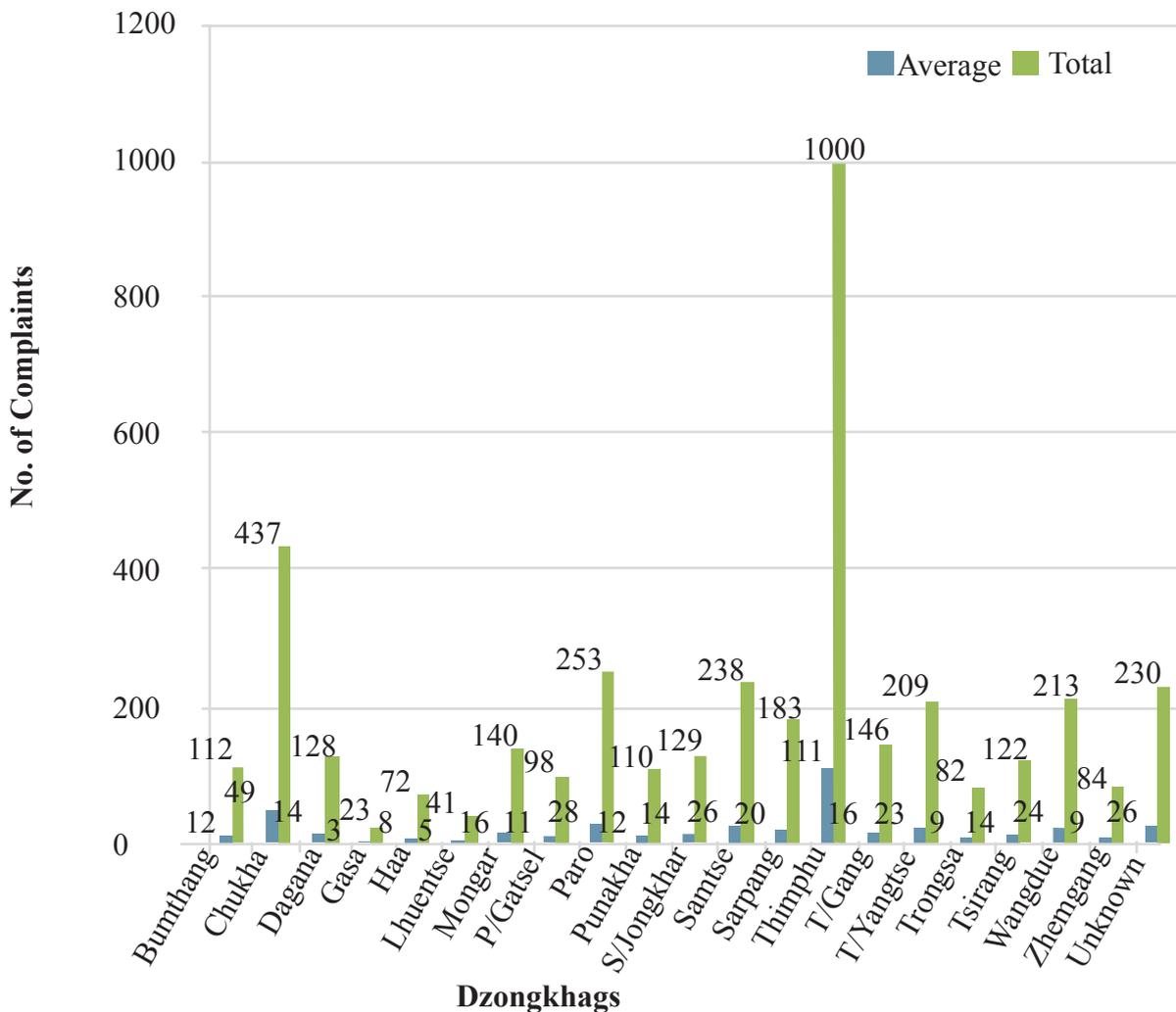


Figure 6.5: Dzongkhagwise complaints (total & average in a year) received from 2006 to 25 March 2015



be also be due to public’s expectation of the ACC as the only platform for redressal of their grievances in the absence of any grievance redress mechanisms in other public agencies. People expect the ACC to solve their problems.

During the reporting period, complaints on abuse of functions constituted about 36 percent, embezzlement 18 percent and bribery 2 percent out of 336 complaints.

Complaints against Dzongkhags

Figure 6.5 shows the complaints (total and average in a year) received by the ACC against each dzongkhag during the past 9 years. Thimphu Dzongkhag has the highest number of complaints (total 1000, average 111 in a year) followed by Chukha (total 437, average 49 in a year) and

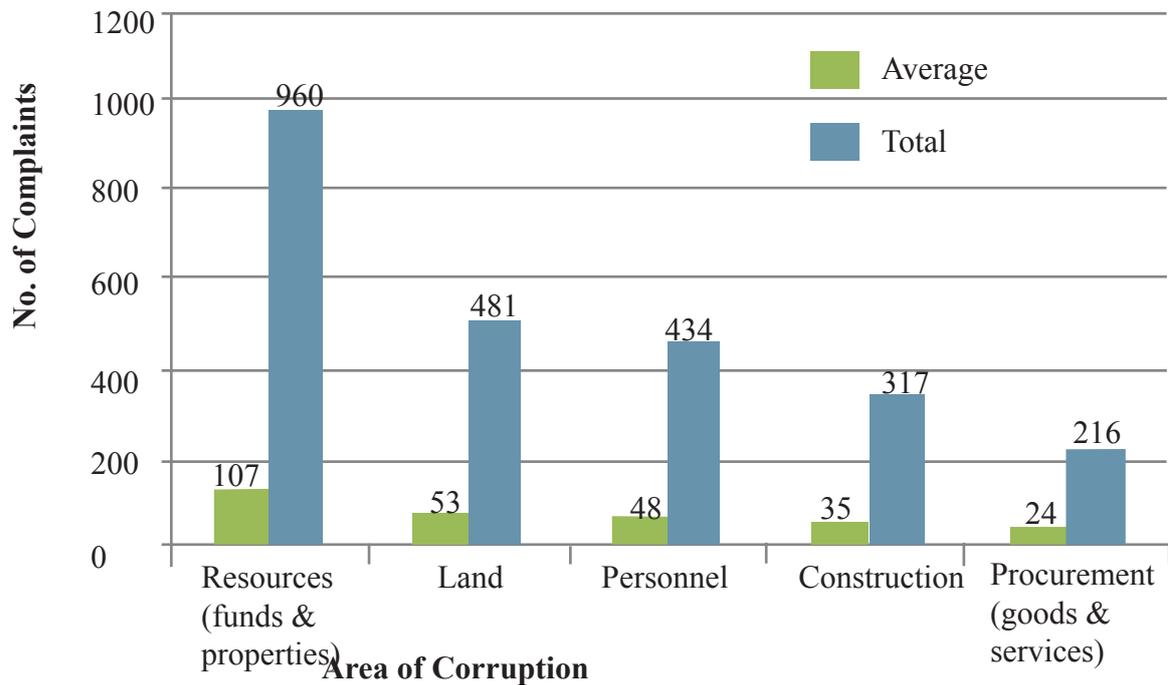
ness on corruption and knowledge of where and how to report corrupt practices.

During the reporting period, the pattern remained the same with the highest complaints being related to Thimphu Dzongkhag with 77 complaints (23 percent) and the least being Gasa with just 2 complaints (0.6 percent) out of 336 complaints.

Complaints by Area of Corruption

Over the past 9 years, maximum number of complaints were on resources with a total of 960 complaints and average of 107 complaints annually followed by land with a total of 481 complaints and average of 53 complaints annually, personnel (total 434, average 48 complaints annually), construction (total 317, average 35 complaints annually) and procurement (goods & services) (total

Figure 6.6: Complaints by 5 most frequent areas of corruption (total & average in a year from 2006 to 25 March 2015)



Paro (total 253, average 28 in a year). Gasa and Lhuentse Dzongkhags had the least number of complaints (total 23, average 3 in a year and total 41, average 5 in a year, respectively). Such a pattern of complaints, that is remote dzongkhags having lesser number of complaints, may be attributed to lesser economic activities in those dzongkhags, smaller population, complainants’ proximity to the ACC and level of public aware-

216, average 24 complaints annually). Figure 6.6 shows the complaints in five major areas prone to corruption in the last 9 years.

During the reporting period, the highest number of complaints was on resources with 80 complaints (24 percent) followed by land with 52 complaints (16 percent) and construction with 48

complaints (14 percent).

Resources comprise funds and properties that are critically prone to corruption in absence of strong internal control measures and institutional integrity. Commonly alleged corruptions in resources include misuse of project funds and government properties like vehicles, office equipment and machineries.

Land continues to be one of the major sources of complaints. Problems of corruption, common complaints and alleged incidences of corruption in the land sector were highlighted in the ACC’s 2011 annual report, along with corruption in public procurement and personnel management. A case study on land with modus operandi of corrupt practices in the sector is included in this report is presented here.

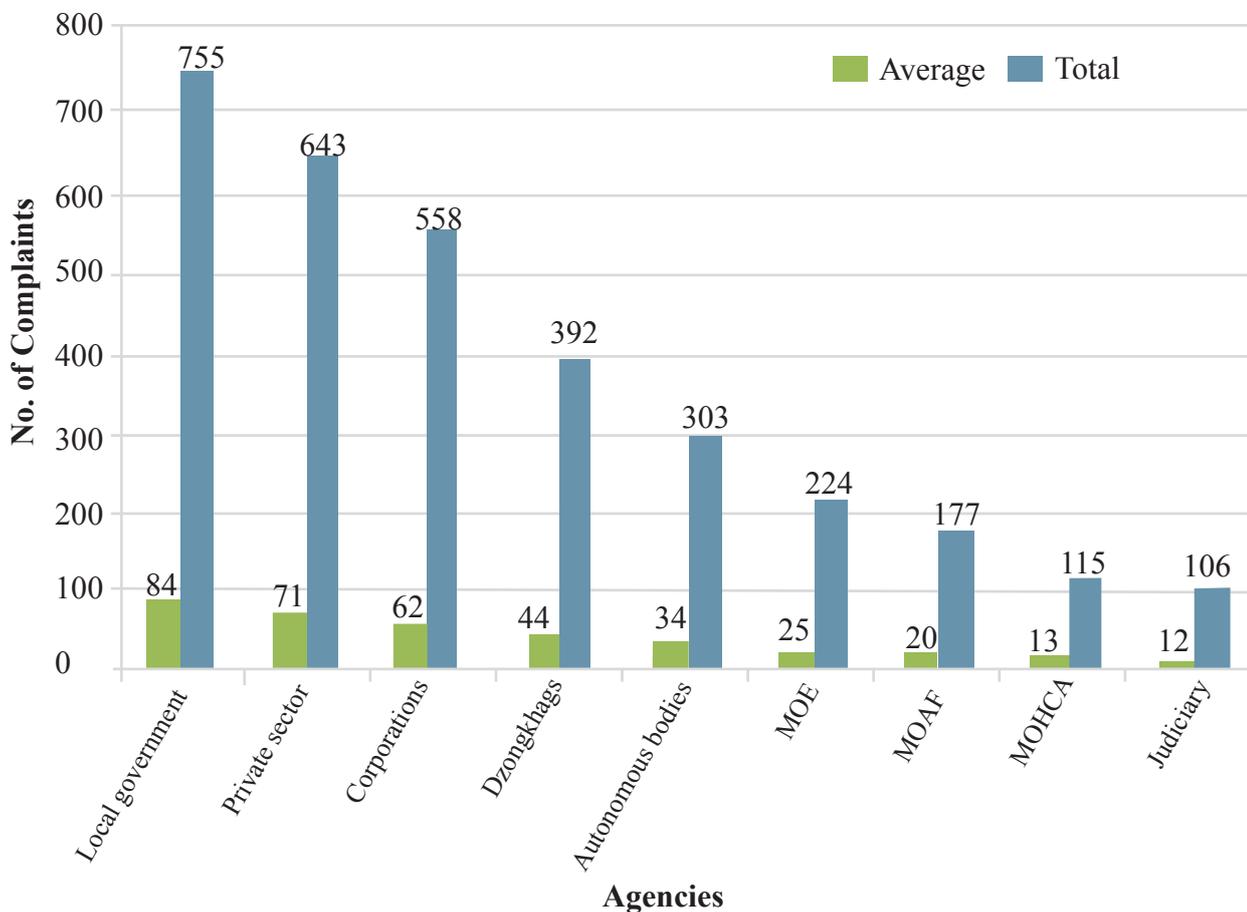
Complaints against Agencies

Figure 6.7 shows the 9 most frequent agencies against which complaints were lodged with the ACC by the public. Over the past 9 years, the ACC received maximum complaints against local government (total 755, average 84 complaints annually) followed by private sector (total 643, average 71 complaints annually) and corporations (total 558, average 62 complaints annually).

During the reporting period, there were 109 (32 percent) complaints against local governments, 32 (9.5 percent) were against private and 34 (10.1 percent) against corporations out of total of 336 complaints, maintaining the same pattern.

Local governments are more susceptible to corruption as they interface with the citizens for development programs and service delivery.

Figure 6.7: 9 most frequent agencies against which complaints were lodged with ACC



With greater devolution of powers, responsibilities and resources to the local level, there is also corresponding devolution of corruption that is aggravated by passive citizens, weak internal governance system, poor transparency and accountability. Local governments are highly vulnerable to corruption. When corruption occurs in local governments, local development and service delivery are compromised, local authorities become invincible, undermining democratic ethos. Corruption in local governments has the most damaging impact on citizens' lives with the poorest being hit the hardest.

Alleged corrupt practices in local governments include: embezzlement, misuse of public funds, illegal land transactions, encroachment of State land, illegal award of contracts, illegal extraction/use of natural resources and illegal business through abuse of functions.

Corruption is not exclusive to the public sector. Corruption in private sector is also a serious problem that distorts markets, creates unfair competition and stifles economic growth and development. It involves businesses influencing public officials. It also takes place between private sector actors. Alleged corrupt practices include, private companies paying bribes or rigging bids to win public procurement contracts, exploiting legal loopholes or seeking to influence political decision-making illicitly. Such corrupt practices in the private sector are harmful to the overall growth and prosperity of the country.

Corruption issues in the private sector such as conflict of interests, lobbying, policy influence, or elite capture of resources through concessions are growing public concerns. The influential private sector actors or those private companies funding political campaigns or having political connections would capture government and its policies to further their own interests at the cost of larger national and public interests. The business houses-government nexus, where government serves the interests of a group of business may undermine efforts to establish political legitimacy and trustworthiness of the government.

The alleged conflict of interests arising from the Government's engagement in the import of

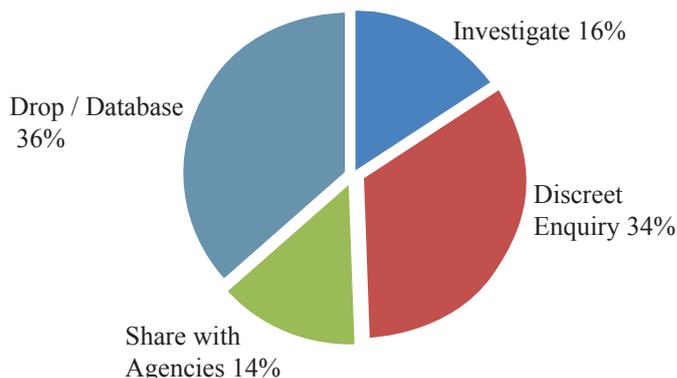
Electric Vehicles (EVs) in the country is a case in point. It raises serious concerns of conflict of interests wherein the Government has taken decisions disregarding the existing rules and procedures. Some manufacturers, considered as prohibited source as per the gift rules, have also gifted EV vehicles to the Government, presumably seeking endorsement of their products, undermining open, transparent and fair procurement competitions. Addressing such issues of conflict of interests is a democratic imperative and in doing so the Government should endeavor to adopt, maintain and strengthen systems that promote transparency and prevent conflict of interests. The case, which highlights serious red flags, is presented under "highlights of cases".

Corruption is also rife in the corporate sector. Alleged corruption offences include, executives, managers and majority shareholders abusing their entrusted powers for private gains to the detriment of investors, employees and society at large; nepotism/favoritism in recruitment, appointments and trainings; collusion and bribery in award of contracts and embezzlement.

Actions on Complaints

Complaints are evaluated weekly by the Complaint Evaluation Committee (CEC) using a software system, which is based on the pursuability evaluation factors (P-Value scoring). The P-Value scoring rates the complaints based on the available details, financial and social impact. The Commission reviews the CEC's recommenda-

Figure 6.8: Actions on complaints in percentage from 2006 to 25 March 2015



tions; final decisions are taken and documented.

The P-Value scoring, as evaluated by the CEC and decided by the Commission, determines actions on the complaints. The actions are classified into 4 categories, namely (i) Investigate, (ii) Discreet Enquiry, (iii) Share with agencies, and

complaints relate to administrative lapses which are not of criminal nature and indicate the need for carrying out administrative system improvement by agencies proactively.

Further, between 2011 and the reporting period, the ACC had shared 529 complaints with agen-

Table 6.1: Analysis of complaints for procurement, human resource and land sectors

SN	Sectors	Period / Year	No. of Backlog Complaints	Outcomes
1	Procurement & Construction Sector	2006 – Mar. 2015	401	265 – analyzed & closed 27 – qualified for investigation 30 – qualified for Discreet Enquiry 36 – shared with agencies 43 – dropped / database
2	Human Resource Development and Management Sector	2007 - 2014	256	42 - qualified for investigation 35 - qualified for discreet enquiry 104 – shared with agencies 75 – dropped / database 235 complaints closed and 21 are pending
3	Land Sector	2006 - 2014	349	163 – shared with agencies 55 – closed 58 – under investigation 73 complaints are pending

(iv) Drop/Database. Figure 6.8 shows the actions on complaints on an average in the past 9 years. About 16 percent of the total complaints qualified for investigation. 36 percent of the complaints had no element of corruption and were dropped or stored in database.

During the reporting period, out of 336 complaints, 47 (14 percent) qualified for investigation, 35 (10 percent) qualified for discreet enquiry, 152 (45 percent) were shared with agencies and 102 (30 percent) were dropped.

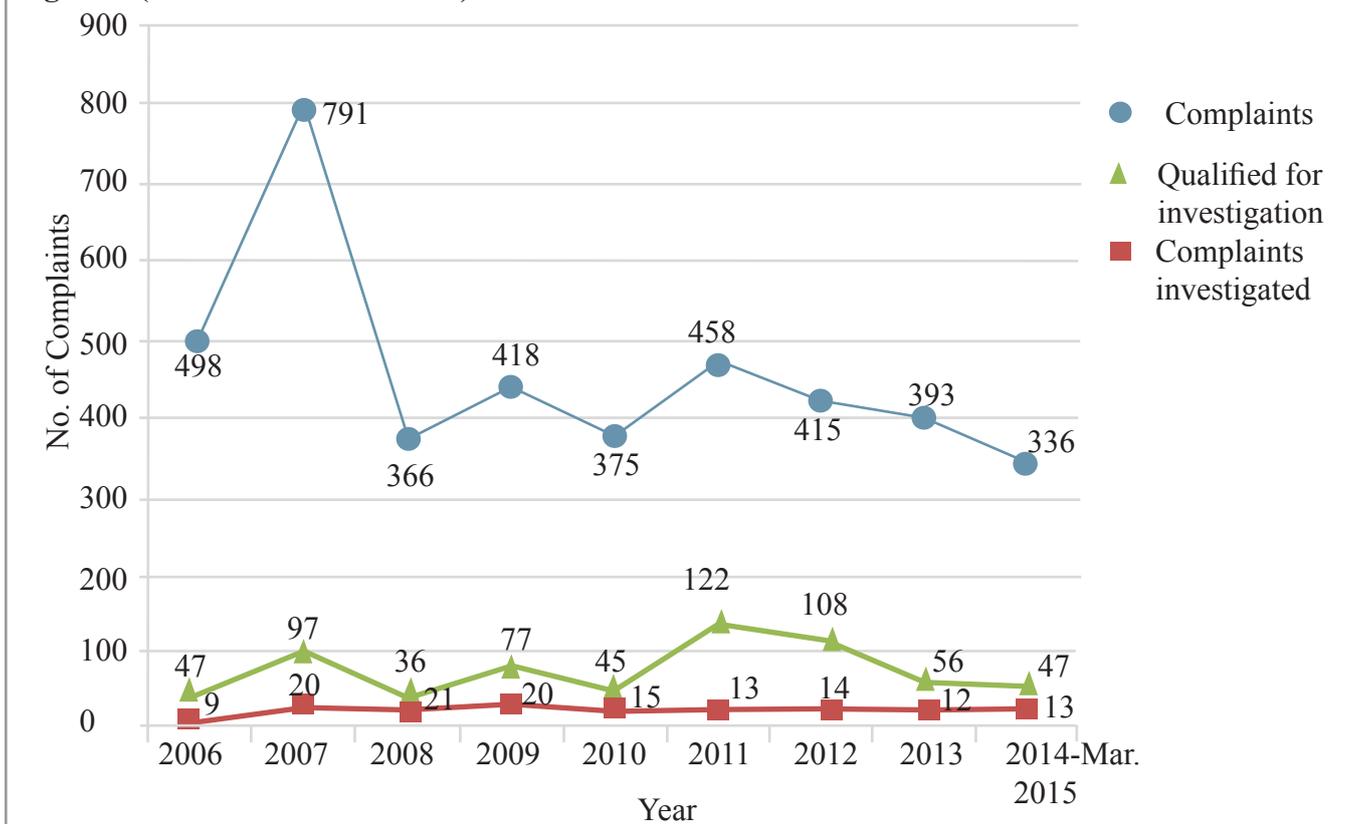
Bulk of the complaints (34 percent of the total complaints) were placed in the category ‘Discreet Enquiry’ which means information needs to be enriched discreetly in order to take further decisions. The outcome of the discreet enquiry could be to investigate, share with agencies or drop/database. About 13 percent of the complaints received were shared with agencies, either for administrative enquiry or for sensitization. These

complaints, of which agencies found 101 complaints baseless, 401 were closed after taking necessary actions and 27 are still open.

Investigation of Cases

The ACC received on an average 450 complaints annually from 2006 to 25 March 2015, of which 16 percent of the total complaints qualified for investigation. However, the actual number of complaints taken up for investigation constitutes only about 3.4 percent of the total complaints received. This has created a huge back-log of complaints to be investigated. Hence, the ACC is facing a serious challenge in clearing this back-log due to varying complexity of cases and also because of human resource limitations. Nonetheless, the ACC has significantly reduced the back-log through desk reviews and information enrichment and verification. As reported in the last

Figure 6.9: Number of complaints investigated against no. of complaints qualified for investigation (2006 to 25 March 2015)



report, this exercise has been done for the procurement and human resource sectors. The same has been done for the land sector this year. The update on the exercise is presented in Table 6.1. The desk reviews and information enrichment and verification will continue for remaining backlog of complaints in an effort to reduce and concretize backlogs into definite actions within June 2015.

Figure 6.9 presents the number of investigation conducted by ACC against number of complaints qualified for investigation and number of complaints received from 2006 to March 2015. Number of cases investigated will not correspond to number of complaints because in most cases a number of related complaints are combined and investigated as one case.

The summary of cases investigated by the ACC are given in Table 6.2.

In the reporting year, 18 cases were assigned for investigation out of which 15 are still under various stages of investigation, 2 are under prosecution and 1 has been referred to agency for admin-

istrative actions.

Outcomes of Investigation

The purpose of an investigation is to obtain facts sufficient to (1) determine whether allegations are substantiated and (2) decide what action, if any, should be taken in response to substantiated allegations. As per the ACAB 2011, responsive action is divided into three broad categories of Prosecution referral, Disciplinary referral and Systemic recommendations. It is important to understand that not every investigation will result in prosecution referral. Outcome of an investigation may also be closure of case upon finding no corrupt conduct.

Prosecution Referral

After the completion of an investigation, the ACC, as per section 128 of the ACAB 2011 and the Prosecution Referral Guideline 2011, refers a case to OAG only when there is sufficient evidence and that the prosecution shall serve public interests. The referred cases are reviewed by OAG and those that merit prosecution are reg-

istered in courts. After forwarding of a case, the ACC makes the case presentation to OAG and provides clarification on the case where necessary. On OAG's side, prosecutors are assigned for the cases, who review sufficiency of evidence, appropriateness of charges and whether public interests would be served by the prosecution.

As shown in Table 6.2, the ACC has undertaken investigation of 142 complaints (cases) from 2006 till March 2015. Out of this, 112 have been completed and 30 are either pending or at various stages of completion. Out of the 112 completed investigations, 73 have been referred to OAG for prosecution. From the 73 cases referred to OAG, 6 cases, which in the legal opinion of OAG did not merit prosecution were referred back to ACC bringing the prosecution rate to 92 percent (i.e. 67 out of 73). However, from those referred back to ACC, one case, namely Gyalpozhing plot allotment, was successfully prosecuted by the ACC, which if included would take the prosecution rate to 93 percent (i.e. 68 out of 73). The prosecution rate is determined as percentage of cases pros-

ecuted out of the total cases referred to the OAG for prosecution.

From the 67 cases taken up by OAG for prosecution, 51 have been prosecuted, 1 judgment deferred, 7 are at various stages of prosecution and 8 are being reviewed by the OAG. In 51 cases where the courts have rendered the final judgments, 47 cases involving 180 individuals have criminal convictions while 4 cases involving 122 individuals were acquitted of criminal charges but were imposed administrative sanctions for their administrative lapses. Considering the case aggregate, the conviction rate works out to 92 percent (i.e. 47 out of 51). The conviction rate is calculated as number of cases with criminal convictions out of the total cases for which final judgments were rendered by the courts.

Disciplinary Referral

As per section 137 of the ACAB 2011, the ACC refers those cases to agencies for administrative

Table 6.2: Summary / status of cases investigated from 2006 to March 2015

Year	Investigation (nos.)		Prosecution (nos.)						Administrative Referrals (nos.)	
	Cases As-Signed	Pending /Under Process	Under OAG Review	Under Prosecution	Cases Adjudicated	Person Charged	Person Convicted	Person Acquitted	Cases	Persons
2006	9	0	0	0	8	103	17	86	1	28
2007	20	0	0	0	8	46	36	10	12	33
2008	21	0	0	0	11	34	23	11	9	26
2009	20	1	0	3	6	32	23	9	9	20
2010	15	1	0	0	9	29	28	1	5	12
2011	13	2	3	0	4	22	21	1	3	7
2012	14	4	3	0	4	25	21	4	3	6
2013	12	4	2	2	2	11	11	0	2	2
2014	13	10	0	2	0	0	0	0	1	0
Till Mar. 2015	5	5	0	0	0	0	0	0	0	0
Total	142	27	8	7	52*	302	180	122	45	134

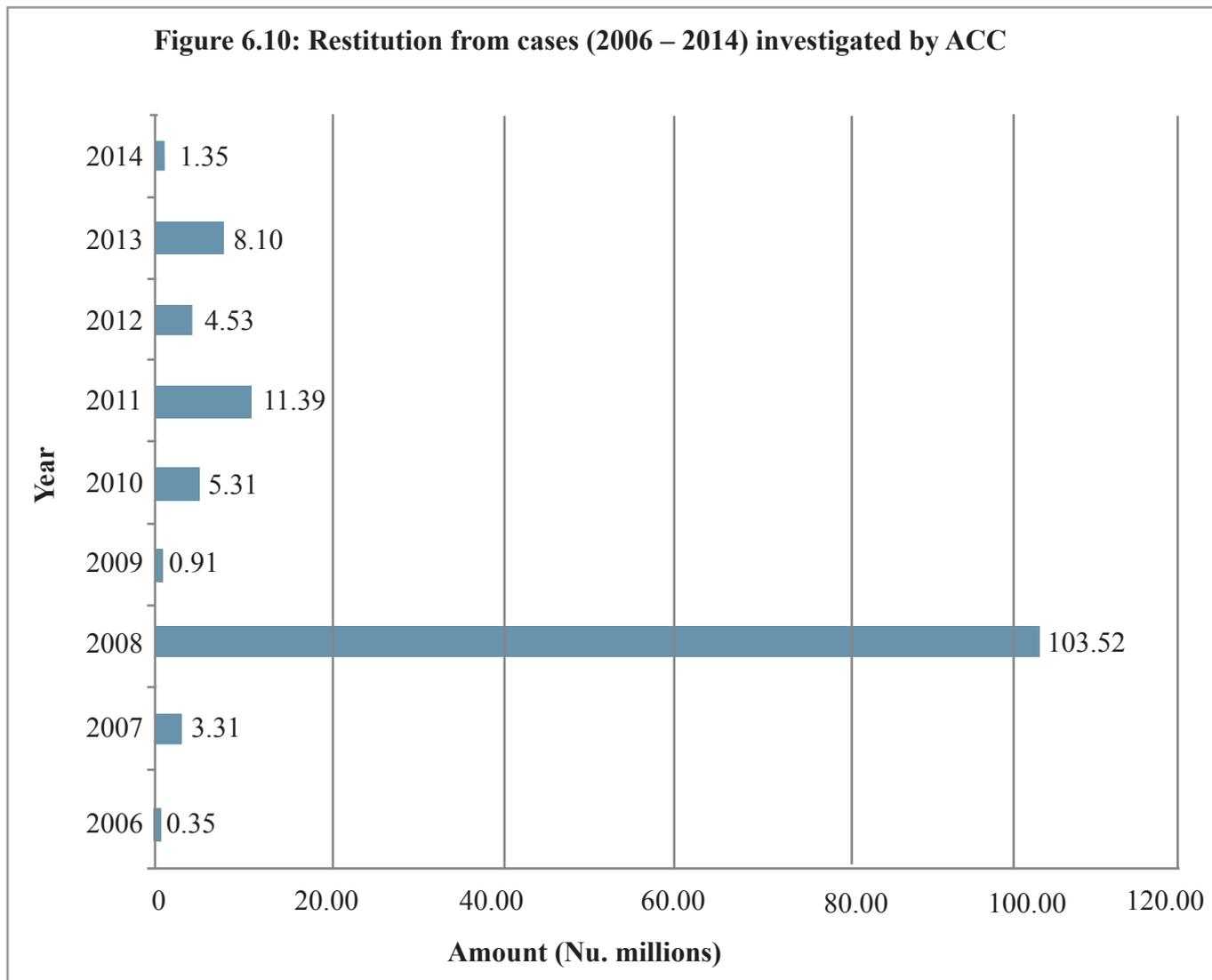
Note: * Judgment for 1 case has been deferred

actions where there is insufficient evidence for prosecution, but administrative lapses had occurred. Agencies must submit to the ACC a report on the actions taken on cases.

As shown in Table 6.2, out of the 112 completed investigations, 45 cases (40 percent of the cases

and recommends interventions to agencies to “fix the system” for corruption prevention, raising public awareness and creating deterrence.

The details of systemic recommendations made by the ACC are given in Section 4.



investigated) were referred to respective agencies. This is symptomatic of wider administrative problems in systems that would require strengthening public institutions to ensure efficiency, transparency and accountability.

Systemic Recommendations

As mandated by section 25 of the ACAB 2011, the ACC, as a natural part of investigation, conducts review of policies, practices, procedures and systems which are vulnerable to corruption

Restitution

“Without restitution, the perpetrators will enjoy the fruits of corruption after serving penal sentences.” (4th Druk Gyalpo, 1985)

Proceeds of corruption, established during investigations are prayed for restitution in the prosecution referrals. Restitution of proceeds of corruption is a powerful tool to combat corruption. It is a deterrence against corruption, whereby corrupt individuals are deprived of benefits from illicit gains.

Figure 6.10 presents the restitution from cases investigated by the ACC from 2006 to 2014. Till date, courts have ordered a total restitution amount of Nu. 139 million. The maximum restitution (about 100 million) is from Samtse mining case investigated in 2008. Prosecution of the Samtse mining case started in 2009 and the final verdict from the Supreme Court was rendered in 2011. Till date, a major portion of the amount i.e. Nu. 87 million remains to be restituted.

There are also cases under prosecution where restitution has been prayed for to the court. Illegal operation of M/s SD Eastern Bhutan Coal Company Ltd. is one such case (investigated in 2009) wherein lower courts have ordered restitution of Nu. 16,717,162.00/- against the prayed amount Nu. 1,441,827,719.30 million; the case is currently under appeal in the Supreme Court.

Apart from restitution of money, there is also restitution of land. Over the period of 9 years (2006 to 2014), investigation has established the restitution of about 178 acres of State land mostly from Nganglam and Gyalpozhing land cases. Some of them have already been restituted while some are still under process. There may be more restitution of State land from the ongoing land cases.

As submitted in the past, judgment execution is a challenge. As per the National Council's 13th session's resolution, the ACC is required to present details of agencies and cases for which court judgments have not been implemented. A separate detailed log-sheet of all closed cases will be submitted to the GGC and will also be posted on the ACC's website. As indicated above about 87 percent of fund restitution from the mining case is pending even after over 3 years. Now OAG is making some moves. With regards to restitution of land, while paper record may look perfect the ACC cannot confirm the actual physical deletion from concerned persons' thram(s) in the field. Therefore, it has requested NLCS to assist in the field verification. The ACC recognizes that judgment execution is not its responsibility. The general compulsion of moral obligation drains the ACC's resources, including its energy.

Highlights of Cases

Fraud and Corruption in Thimphu Land Case

Background

For a country like Bhutan, which is predominantly agro-based, land is an important asset for wealth generation and economic security. *Phazhing*, as emotionally and traditionally referred to land, is perhaps the only primary asset to begin with, for most families. Given this significance, land administration and regulation, perhaps was one of the oldest programs carried out by the Royal Government of Bhutan beginning with the launching of the first five year plan in 1961. The entire country was surveyed from 1961 to 1966 using the chain survey method and new *thrams* were issued to landholders from 1966-1972. Later, these *thrams* were transcribed into a separate register as the national land records. Today, these *thrams* are known as "*Chhagzhag thram* or Acre *thram*", simply based on their importance and unit of area recorded in them. These *thrams* were the sole authoritative document that certified and established the legitimacy of land ownerships.

In 1980, following the resolution of the 52nd session of the National Assembly of Bhutan, resurvey using more modern method of survey was carried out throughout the country. This survey which lasted till 1997 was known as the detail survey or plane table cadastral survey. This survey generated cadastral maps on landholding for the first time. Subsequently, the 58th session of the National Assembly of Bhutan in 1983 passed a resolution to conduct re-survey to ascertain excess land. Therefore, New *Sathram* Compilation (NSC) survey was conducted from 1997 to 2003 wherein verification of the detailed survey maps or cadastral maps with *Chhagzhag* or Acre *thram* for the entire country was done. It essentially involved digitization of cadastral maps and *thram* records, using the latest surveying equipment and technology. The principal objective of this survey was to verify and validate the legitimacy of landholdings as accurate as possible.

In 1991, the 70th session of the National Assembly of Bhutan passed a resolution to combine *thrams* under same dzongkhag where the *thram*

holders resided. This exercise has been conducted since 1982. During this exercise, for example, for Thimphu Dzongkhag, land officials had written “*Thay*” against a parcel of land that was not under the Dzongkhag and “*Thim*” against a parcel of land that fell under the Dzongkhag.

Since land has gained significant monetary value, mainly due to urbanization over the years, complaints of corruption on land have increased in recent times. The recently launched Thimphu land case illustrates the extent and the complexity of corruption in land administration. Officials who were appointed to the position of public trust have abused their authority and position for their private gains. Abuse of authority together with abuse of privileged information resulted in fraudulent transfer of State land to individuals as presented below.

Modus Operandi of Fraudulent Land Grabbing

Fraud and corruption in land transactions manifest in varying schemes, but typically involve collusive practices, among several players. The local leaders who were involved in detailed survey held privileged information on land status within their jurisdiction and when the NSC survey was conducted, they colluded with surveyors and land record officers to fraudulently grab State land to make quick commercial gains. In this scheme, local leaders usually targeted *thrams* that remained astray during ‘*thay-thim*’ segregation in 1980s, abandoned land with tax arrears, land of absconders, deceased people or non-Bhutanese without heirs, etc. Then, in connivance with their kids, kins and cronies, misrepresented them as relatives of such *thram* owners and processed transfers in their names. Such fraudulent State land grabbing required the blessings of surveyors and land record officials, as they had to authenticate and affect the final transfer of ownerships. Not surprisingly, these public officials’ spouses, kids and relatives often acted as buyers and as ‘fronts’. Once, fraudulent grabbing and transfers were completed, these plots or their proceeds were redistributed amongst the parties.

As per the past procedure, any citizen who wished to get a *thram* had to first draw an internal sale

deed between two parties, which would be filed to local courts. The courts in turn, as a mechanism of check and balance would seek formal verification from the dzongkhag and the gewog offices on the authenticity of those transactions. Before issuing the verdict, the court would have withheld for 30 days to rule out any controversies or problems. The court then would pass its verdict and send the documents to then the Ministry of Home, which used to be the parent ministry for Department of Survey and Land Records. After the verdict, survey would be conducted and registration accordingly be updated in the *Chazhag Thram* and such changes were effected in records with the respective dzongkhags and gewogs. Despite this seemingly robust check and balance mechanisms in the procedure, the ACC investigations increasingly reveals that the documents processed with the courts were fraught with deception and falsified information. For example, *thram* transfers were done through courts on “gift” or “inheritance” as basis when there were glaringly no familial relationships between the buyer and the seller. In fact, such falsified transactions were accepted as “norms”, knowingly done to evade transfer tax. However, it also served as a very good avenue to transfer illegally registered State land.

As often seen in general corruption cases, corruption in land administration were spearheaded by motivated offenders [local leaders (*Gup, Mang Ap, Land Tshogpa*), survey and land record officials], motivated by windfall gains. Institutions of check and balance had largely remained for perfunctory procedural sake, quite often failing to fulfill minimum due diligence and oversight functions. People who were remunerated to fulfill responsibility of proper surveying and record keeping betrayed the public and the Government for their personal benefits through criminal breach of trust and criminal conspiracy. One of the key weaknesses in the land administration exploited by motivated individuals was the lack of minimum safeguards in the land record keeping and management. Hence, element of forgeries, fraudulent insertions or tampering of records, missing records, etc., are very common in almost all illegal land transactions. A case in point, the local leader, who is now known to be the kingpin in a series of land scams being investigated,

had facilitated a sale of 55 decimal apple orchard to a buyer. The transfer was processed through the local court as a “gift”. The survey authority later discovered that the seller had 5 decimal only in *Chazhag Thram*. It was found that the local leader had worked in connivance with some surveyors and a clerk who tampered the *Chazhag Thram* record. He had also falsely certified to the court that the seller owned 55 decimal of land.

To some extent, weak supervision and complacent management also encouraged fraudulent behaviour to thrive in the system. There are many documented incidences involving serious misconduct by land record officials, which the management superficially corrected as errors and unintentional oversights even though such incidences were rampant and suggestive enough to warrant deeper investigations. Such complacent and apathetic leadership attitude only sent wrong signals within the agencies that the management is not serious to deal with corruption, an encouragement to officials who were inclined to misuse their authority for private gains.

Nexus between corrupt officials and local officials ran deep but remained discreet. Sometimes it was effectively used to steer administrative decisions to circumvent any adversarial situation. For example, a high-level inquiry in 2003 investigated several land related irregularities in Thimphu. A finding showed that 4.50 acres of *Sokshing* belonging to the father of one local government official had been fraudulently converted as *Panzhing* in *Chazhag Thram* record and subsequently processed for land substitute from another location. Although criminal element was never established, the land was eventually reinstated and the substituted land restored by the Government. However, in subsequent years, the local official tactfully using his relative as a “front” lodged appeals in an attempt to retake 4.50 acres substitute land from the same location in lieu of 92 decimal acquired by Department of Roads for road widening. The appeal was not only processed using inappropriate channel but also favourably recommended by one senior official in the Department of Survey and Land Record in order to secure the approval. The ACC investigation reveals that certain member of the local leader’s family also later collected monetary compensation against 90 decimal plot

in 2008. In a separate incidence, this officer and the local leader had participated in a fraudulent land transaction in which they illegally profited 10 decimal and 13 decimal plots, respectively.

The rampant fraudulent and corrupt behavior of local government and survey and land record officials undermined His Majesty the 4th Druk Gyalpo’s Command given to the head of Land Record Office in 2 August 1985, which states, *“In order to avoid the shortage of land for the future generations, it is very important to be strict from the beginning only in transferring and registering the land by changing the type of land which may be registered in one’s name. Moreover, the office of land record must be very careful and should not deviate from the Land Act, and should be very strict, as far as possible, in cases where tsamdo (pasture land), sokshing (wood-lot), garden, etc. are sold or given for free and needs to be transferred from one name to the other. You should be careful in changing the type of land, for example: while changing kamzhing (dry land) to chhuzhing (wetland), making dry land and wet land into garden and where there is a need to change the type of land”*.

The Commission’s intuitive question is, *“Is fraud and corruption in land administration, as seen in Thimphu an isolated case or will it be the harbinger of deeper problem, nation-wide?”* While the question on geographical spread may linger, the answer on tackling it is definitive, as Commanded by His Majesty, *“The rise in corruption in Bhutan is a challenge we face. How big the challenge is will depend on how soon and how strongly we decide to oppose it. There is no room for corruption - it is as simple as that, not now and not in the future.”* To fulfill His Majesty’s Command to oppose corruption and contain it, land administration must be strengthened through concerted efforts of all stakeholders. While the National Land Commission as the central authority must spearhead the efforts, all public agencies that have a stake in land administration must play their effective roles. If land has to remain the primary asset for wealth generation and ensure better livelihoods of the Bhutanese people for generations to come, there is no question, but for everyone to be vigilant and exercise due diligence in land administration and management, at

every transaction level.

Conflict of Interests Case

The Prime Minister made a verbal request to the ACC to conduct an investigation into the issue of conflict of interests in the Government's initiative to import electric vehicles during the launch of NIACS 2014-2018 on 23 June 2014. The same day, it was formally communicated by the Cabinet Secretariat vide its letter S-11/150 with the request to conduct a thorough study and to submit the findings to the Government for its consideration. It was processed through the ACC's in-house complaints review mechanism. The ACC, with its mandate to prevent and combat corruption in the country, recognizes conflict of interests as a serious issue. The review was undertaken in view of the imminent potential risks in a democracy. The primary objective of the review was to establish intention and identify red flags for the Government to make interventions in minimizing such risks in the future, which will predominate the country's political economy and governance as is the experience in the region and beyond.

The review did not assess the efficacy of the Government's policy on EV as it is not the ACC's mandate. The ACC is also always mindful of the fact that its work does not discourage creativity and innovation, which invariably is lashed at it by public servants for their poor performance and the "inability" to take initiatives and decisions. However, in promoting creativity and innovation, corrupt intent and corruption risks cannot be overlooked at all costs. Further, the inherent challenges of a small market with few private sector actors who the external business proponents will naturally associate with for advancing their business prospects in the country has to be recognized and addressed appropriately. Such a situation places greater compulsion for government decisions to be highly transparent and communicated proactively to the public to ensure level playing field; business proponents also has to be conduct themselves with a high degree of transparency and as per the laws of the land. The dynamics and prominence of private sector actors vis-à-vis government of the day may be worth contemplating upon during discourses on building a vibrant

democracy in Bhutan.

Conflict of interests in decision-making is a growing public concern. It is a matter of integrity and potential element to corruption. Therefore, it is one of the most critical issues in the fight against corruption. It has to be understood well by all, particularly public officials with decision-making powers and control over resources. Abuse of political and administrative power for self interests whether for an individual, a group or a party damages public and private sector agencies, general public and society as a whole.

The introduction of EVs in the country is the Prime Minister's pet idea. He first shared it at the Friday Forum inaugural address at Royal Institute for Governance and Strategic Studies (RIGSS) in Phuentsholing in October 2013. The Cabinet was informed about EV developments during its 26th session held on 18 February 2014; on 19 June 2014, the Government decision to import EVs was highlighted during the presentation of the State of the Nation Report to the joint sitting of Parliament.

Subsequently, the Government had taken several initiatives to introduce EVs in the country. The Government allowed import of second hand EVs, signed MoUs with EV companies, namely NISSAN Motor Co. Ltd. (Japan) and Mahindra Reva Electric Vehicles Private Limited (India), launched their EV brands Nissan Leaf and Mahindra Reva e20 and also received 3 numbers of Nissan Leaf as gifts. Talks were also held with Mitsubishi Motors Corporation (Japan) and BMW Group Asia to introduce their brands of EVs in the country.

The Government had decided to import EVs as one of the many other measures to reduce pollution and also pressure on INR reserve. The decision was taken in view of the situation that whatever INR is being earned through electricity export is being utilized for importing fossil fuel from India. However, it was decided without any consultation with relevant stakeholders, no cost benefit analysis had been done and there are no policy documents on EVs.

The review could not establish direct conflict be-

tween the private interests of the Prime Minister and the Government's actions on import of EVs in the country. The Government's decision to import EVs are in disregard of the rule of law. Objectives may be noble, but:

- the Government order on allowing import of second hand EVs has violated the provisions of the Constitution and the Rules and Procedures for Imports from Third Countries 2001;
- receiving EV gifts from NISSAN Motor Co. Ltd. (Japan) and Tesla Company (USA) has violated the provisions of the Gift Rules 2009; and
- the Government signing MoUs with NISSAN Motor Co. Ltd. (Japan) and Mahindra Reva Electric Vehicles Private Limited (India) has undermined provisions of the Constitution that provides for fair market competition and has given undue benefits to private interests of the two local dealers of NISSAN Motor Co. Ltd. (Japan) and Mahindra Reva Electric Vehicles Private Limited (India).

The MoU signed with NISSAN Motor Co. Ltd. (Japan) contains the RGOB National Action Plan for EV which among others contains details such as the Government plan for 'All RGOB's light vehicle fleet to be converted to EVs', 'implementing EV taxi fleet and EV transportation for tourist', etc. The RGOB National Action Plan for EV is Government's policy matter. The Government makes policies with general purpose or tendency considered as directed to the welfare or prosperity of the State and to enhance market competitiveness. The Government's initiatives on the import of EVs in the country appear to unfairly benefit a select few.

Another serious issue is gift giving and taking between public officials and businesses. Gift giving and taking per se may not be corruption depending on the circumstances, but it is important to consider why business firms want to gift EVs to the Prime Minister or a minister. The argument that the gift is not for the personal use of the public servant but intended for his/her official use or to test the efficiency of the vehicles is not significant and besides the point. What is significant is the role that the Government plays in the procurement of the vehicles. Accepting gifts impedes open, transparent and fair procure-

ment competitions. Where a public official who can make decisions or influence decisions made by others about the use of public money (or other public resources) receives such gifts then the gifts may sway them to make decisions in favor of the person or company that provides the gifts. Even if decisions are not affected, there is a differing public perception. Public perception cannot be dismissed but has to be managed because at the core is public trust in public offices, in the Government.

In order to address the problem at source, gift giving and taking has to be discouraged especially when there is a potential risk of either perceived or potential conflict of interest. Government should endeavor to maintain the highest standard of integrity through establishing an effective compliance regime for strong code of conduct and ethics, strengthening systems that promote transparency and accountability and prevent conflicts of interests, trading of privileged information and influence peddling.

There are growing expectations from an increasingly well-informed society and business community for unbiased and transparent public decision-making and that it is not improperly affected by self-interests, so that the integrity of markets and fair business competition is supported, and corrupt practices are minimized.

Therefore, it is imperative that the Government of the day stresses the importance of rule of law as an essential element in addressing and preventing corruption. Particularly, when it comes to conflict of interests, it is important to address not only "actual", but also "perceived" and "potential" conflict of interests. Conflicts of interests act as a cancer that eats away at the integrity of democratic institutions and governance. Experiences from the region and beyond illustrate that, in instances where governments have failed to effectively address or prevent conflicts of interest, they have had a stifling impact on democratic aspirations and free market growth.

As everyone and everything is evolving in a young democracy, the Government of the day has the important responsibility of strengthening the system of governance and building public trust in it for a more secure future.

The review should not become a platform for political mudslinging. It should generate productive discussions and prompt collective reflection for collective action in minimizing such corruption risks that will potentially lead to money politics, political corruption and elite capture.

The ACC is overburdened with complaints and the subsequent actions, which otherwise should be largely dealt at the agency or the local government levels. This not only over stretches the ACC's limited resources but also incapacitates it to proactively address larger issues for greater impact on governance and it on progress and prosperity. With the Government's Performance Management System initiative, G2C, joint ef-

fort of ACC-DLG-RIM-CSOs in shifting from votes to voices through fostering social accountability culture especially at the local government level and the National Council's proposed study to strengthen local governance will provide the much needed space for the citizens to actively engage in the decision making processes, ensure better and transparent management of resources and demand better services without discrimination. These should prompt agencies at all levels to strengthen their internal governance system that promotes integrity, creativity, dynamic participation, effective communications, effective grievance redressal measures, transparency, accountability and above all trust.

“Conflict of interests in decision-making is a growing public concern. It is a matter of integrity and potential element to corruption. Therefore, it is one of the most critical issues in the fight against corruption. It has to be understood well by all, particularly public officials with decision-making powers and control over resources. Abuse of political and administrative power for self interests whether for an individual, a group or a party damages public and private sector agencies, general public and society as a whole. Gift giving and taking per se may not be corruption depending on the circumstances, but it is important to consider why business firms want to offer expensive gifts to public servants. The argument that the gift is not for personal use of the public servants but intended for their official use is not significant and besides the point . What is significant is the role that the public servants play in decision making. Accepting gifts impedes open, transparent and fair competitions. Where a public official who can make decisions or influence decisions made by others about the use of public money (or other public resources) receives such gifts then the gifts may sway them to make decisions in favor of the person or company that provides the gifts. Even if decisions are not affected, there is a differing public perception. Public perception cannot be dismissed but has to be managed because at the core is public trust in public offices, in the Government”

Section 7

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Section 7

CHALLENGES OF FIGHTING CORRUPTION

General Challenges

His Majesty's 107th National Day Address states, *'Corruption is unambiguous - there is no great or small corruption. And no one can be above the law... there is an even greater threat- ignoring corruption'*. Heads of institutions and agencies have failed to consciously, continuously and sincerely internalize and articulate His Majesty's deep concern for corruption and the Government's "Zero Tolerance for Corruption" policy within their internal governance systems and behavioural standards. Oversight bodies such the media fraternity and CSOs including the private sector are far removed from it. The GCB Reports, 2012 and 2013 that highlight people's perceptions of political parties, police, public officials/civil servants legislature/parliament, judiciary, media, business/private sector as being among the eleven most corrupt institutions should also counsel the concerned authorities to brace these very important institutions of governance against all potential risks.

A cursory review of the larger culture within which systems operate, fear, apathy and cynicism of public servants and citizens, young and old and sanctions imposed by authorities against perpetrators of offences will testify it amply. Examples such as, "Some public servants who have failed to perform professionally, allowed corruption to perpetrate in their agencies or even involved in corruption are promoted sometimes to greater and more important positions, enjoy plum postings and transfers; while individual perpetrators of corruption are punished, fixing organizational accountability is an exception; some agencies even defy court orders and no one does anything about it (everything becomes personalized); some corrupt acts legitimized by committees, knowingly or unknowingly, are considered legally binding; some public servants who are convicted of corruption, lack integrity and ethics, enjoy better perks in the private sector or nomi-

nated as candidates in politics – local & national; business people whose licenses are cancelled for corruption and fraud, readily obtain another license in another entity's name and it is business as usual sometimes even working in bigger contracts; media houses are averse to professionalism, transparency and accountability, which they so aggressively demand from other public entities; some courts and agencies perceive audit recoveries from employees as administrative sanctions. e.g. a civil servant embezzles over Nu. 2 million, the amount is recovered and moved to another unit in the same agency; some accountants who have a history of embezzling funds is transferred to another agency still as accountants every time s/he embezzles; non-performing public servants are kept in office to recover outstanding or embezzled amount (i.e. government repaying itself); whistleblowers face reprisals; stopping one year's training (in any case most public servants do not get training every year) and reprimand are common administrative sanctions imposed by agencies; some agencies spend much time in writing to each other regarding disciplinary action to be taken against erring civil servants; some agencies write to ACC seeking directives on action to be taken against erring employees and business entities when rules are clear; forging documents and faking travel claims is an accepted norm; territorialism in an age of collaboration and openness and information inaccessibility in the age of ICT & growing open data policy, etc.", amply illustrate the rhetoric of a tough anti-corruption policy.

Further, the situation in the south-western region of the country is a very telling example of costs of corruption for a small country that continues to depend on development assistance despite the self-reliance policy and the happy Bhutanese mentality. It is public knowledge that the region is not only the economic hub of Bhutan but it is also the hub of corruption and fraud. Who and how businesses are conducted there and how these extend to the commercial operations in the interior

market is common knowledge. Most public servants are also generally aware of the ills and the potential risks that fraught their organizations. Huge public resources are lost every day, every month and every year. Yet, most will not report because either they are party to it or are thinking of joining the fray since being caught in the “business” is of very low risk and pays high dividends, or they feel that there is no point reporting because nothing will happen or they fear reprisals because the nexus of actors is powerful. This is corroborated by the respondents’ reasons for not reporting an incidence of corruption in GCB Report 2013: 45% of the respondents attributed to “it would not make any difference” and 35% to “I am afraid of reprisals”.

The ACC, since inception, has been unequivocal in highlighting the risks of corruption in the country and the challenges in fighting it. Every annual report highlighted an important challenge. This section, in gist, once again highlights those challenges including those related to investigations.

The collective fight against corruption must involve all public and private institutions, down to self of each individual citizen level to make it all encompassing and effective. This collective involvement in the true spirit of fighting a common enemy must be spontaneous in action. Spontaneity in corruption prevention through not just strengthening of systems against corruption but managing them well is not happening. Good governance is every entity’s responsibility and preventing corruption is nothing but good governance efforts to be inherent in every institution’s responsibilities. Everyone agrees and espouses strong proclamation that corruption must be rooted out for GNH to flourish, for Bhutan to remain strong, happy and harmonious. Strong proclamations that lack strong actions, whether at the level of self or entity are reduced to mere ‘lip service’. What could be the reasons for ‘all words’, but ‘no action’ syndrome, which characterize the Bhutanese quite well when it comes, especially to controlling corruption? Some experiences gained over the years by the ACC are described to provoke public discussions on how to control corruption collectively. It is intended to initiate appropriate actions at the individual self

to the institutional level, to generate some synergies that would lead to better strategies and collective determination in the nation’s fight against corruption.

Bhutanese people generally take things for granted even it concerns the country’s independence, security and sovereignty. This callous attitude also manifests in the management of common asset like the environment and the pressing concern such as corruption. The state of affairs of common resources, like land, water, forests, civic amenities, etc. tell that big story. Not many people are ready to solve such matters. Instead, people narrate their helplessness; authorities are not doing enough, etc. and it leads to long drawn out blame game. Hence, proactive and collective remedial measures are not forthcoming to change the ineffective system for common benefits. However, the garb of helplessness-cannot-do-anything disappears when personal interests and interests of kith and kin are involved; people are fiercely protective and go to any length to repulse them. This undue bias against common interests and common issues defies logic, as failure to protect them will also jeopardize personal interests in the long run.

Under the golden rule of successive benevolent and visionary Monarchs, Bhutan has emerged from a least developed to a developing country with remarkable credentials within a very short span of time. This political and socio-economic advancement unfortunately has not brought about changes in people’s mindset and behavior in how they pursue and fulfill their common interests and aspirations together as one nation, one people. They have to unite and fight for their collective cause and against common social and political menace, like corruption. Corruption, if not controlled, has the potential to undermine the security and sovereignty of any country, big and small. Experts say that Arab Spring trace back its root cause to widespread corruption in the member states and in the region over a long period of time.

Culturally speaking, certain nuances of corrupt behavior were accepted norms in the past. Stories of ‘*Chanjey*’ (gift) to authorities resulting in ‘favorable’ decisions were heard many times.

One was considered to be an *Azha Passa* (ethical person of no use) if one did not tread the path or favor his/her kith and kin while in power. Given this psyche, changing people's perception especially among the rural populace and tolerance for corruption remains a great challenge. As an offshoot of such a mindset, misplaced compassion for corrupt people deter authorities from taking appropriate actions against them. Yes, s/he has committed the crime, but s/he has a large family to support is the rationale for lenient or non-action. As mentioned before, money embezzled has been restituted and no action is necessary is another rationale used quite often for non-action. With this attitude, a strong message and action against corruption is diluted, with a lingering sense of, 'may be corruption is not so bad' after all. It encourages other people to take the chance to enrich themselves. Further, it creates opportunity for corrupt acts through inequity in action, vis-à-vis compassion for your relatives and associates and harsh penalties for others. People have conveniently forgotten the age-old wisdom of, '*Nenpa Tsarmachen Zangpo Chun Mese*' (if wrongdoing is not punished, good culture will not flourish). Appropriate or similar action for similar offence, swift and decisive action on corrupt people is the only way forward to control corruption with deterrence.

Further, when someone has lost against all appeal system because s/he was proven to have committed the crime, s/he has the audacity of appealing for *Kidu*. *Kidu* culture is promoted by the Bhutanese mindset of self-interests above all, which is against the much pronounced value of, "*Ley Jumdey Dha Thadamtsi* (cause and effect)". If one has amassed huge wealth at the cost of the State and the people. *Kidu* is obtained, s/he would enjoy the fruit of ill gotten proceeds. If such a closure of a corruption case takes place, it would send the wrong message, "corruption pays in the end" after all. In the process, the opportunity for *Kidu* would have been taken advantage and abused for narrow self interests. *Kidu* is granted by the caring Monarchs to the deprived and the weak. Hence, people must appreciate the true compassion of the Monarchs and never take advantage and abuse *Kidu* as a matter of right.

Bhutanese society is small and close-knit. Practi-

cally, everyone knows each other and friendship for solidarity among fraternity and associates is strong. Solidarity is good, if not misused. It is an important social capital to generate cohesion and harmony. When it is marred by self-interests and protection, favoritism, nepotism and patronage, it influences decision-making process, compromising trust, impartiality and professionalism to varying degrees. Public at large is aware of this misuse and do not have much trust in authorities with enforcement responsibilities. Even if decisions are impartial, lack of transparency and effective communications conjure all sorts of misperceptions. Flawed enforcement is supported by another system of entrenched territorialism in agencies. The combined impact of these reinforcing weaknesses in the system on people's mindset is illustrated by the Bhutanese saying, '*Kha Dha Lap Chigkha Thewdha Kili Zurkha Thenbi*' (when mouth and hand are together (meaning eating as benefit), elbow will be thrown outside).

Authorities are well placed to control enforcement processes through either 'scratch each other's back' or 'tit for tat' arrangements, depending on situations. Under such a system of enforcement structure, no one is ready to take hard, but correct decisions. Hence, fear of reprisals from people using their connections and authority is omnipresent. Emboldened by immunity provided by such social and power networks, some corrupt people even have the guts to blame everybody and the system for their misconduct. A no-nonsense and strong ethical leadership has become absolutely imperative for appropriate, equitable and swift actions against corrupt people.

Another perpetual challenge that the ACC faces is getting committed professionals to work in it. This is largely due to fear of reprisals and potential risk of them and their families being deprived of public services in the future. People who have joined ACC and have been trained invariably decide to exit it at every opportunity that they get. As highlighted in Section 2, in over nine years fifty employees have left the ACC. "I sympathize and applaud you for doing a great service to the nation. You are doing a great job, keep it up ACC". These are some comments constantly made by people, without meaning much. Emptiness of these words become evident the very moment

ACC's investigation affects people. Discharging one's responsibilities is reduced to imperception of personal vendetta; serious accusations are leveled against the person.

The ACC cadre is constantly placed under tremendous stress. It is physically, emotionally and professionally stressful to conduct investigations. In a small society, there is no anonymity and one is always exposed to risks and uncertainties. Consequently, the cadre along with their families are isolated, marginalized and demoralized, making them ever more vulnerable. They have no social life and leisure. In addition to these realities, the cadre is governed by strict in-house ethical code of conduct. Politicization and abuse of ACC, as an instrument of political vendetta, as experienced in other countries, cannot be ruled out. All must be vigilant at all times against such abuses. Thus, it is crucial to make ACC strong and attractive with right leadership and organizational strategies with sincere and tangible public and political support at all times.

Challenges of Investigation

Investigation of corruption encounters serious challenges as it is a clandestine crime perpetrated by willing partners. It is a white-collar crime planned and executed in secrecy by intelligent people with authority and control over resources. There is no immediate victim, no crime scene and no witness or even if there was one, s/he would not divulge any information for fear of reprisals from well-connected people. Entry and cracking of a corruption case is much more difficult and resource intensive. Hence, conventional investigation methods and skills are not as effective in corruption investigations.

In a fast changing world driven mainly by economic goals, values and priorities of a society change. Quite often, lifestyle change into lavish consumerism takes over and it fuels corrupt acts in the beginning. Gradually, people get motivated by prospects that would support the expensive lifestyle, which has become a habit. Now corrupt intent and prospects of illicit gains act as incentives to become even smarter to devise new and more sophisticated modus operandi of

corruption. In a globalized world corrupt acts could be committed with a push of a command button from anywhere. Hence, staying relevant and a step ahead of criminals has become the biggest challenge for investigating agencies. Ideally, investigating agencies must possess capability, both in terms of human resources and infrastructure to meet the challenges. But, sophistication of infrastructure and capacity building are dynamic, requiring constant efforts and resources. Constant efforts to update and upgrade, both infrastructure and capability are slow in the bureaucratic setting. On the other hand, criminals forge alliance, commit crimes and transfer the proceeds faster. Against this backdrop, looming threats of money laundering and other financial crimes in cyberspace poses a serious challenge to Bhutan's financial sector.

In view of the fast evolving crime, absence of surveillance and intelligence infrastructure presents a debilitating challenge to an investigating agency like the ACC. Concerted efforts are required to build networks and intelligence capabilities. Conventional techniques and procedures are not at all appropriate as they are time consuming and fatiguing. In comparison to huge risks to public funds, which can be saved, making investment is the only way forward. A comprehensive plan and strategy to build surveillance and intelligence capability cannot be over-emphasized. It is a definite requirement for the ACC's success in future. But, the huge resources required poses formidable challenges. To begin with, 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.

In a fast changing environment, capacity building is a continuous process to remain relevant and committed at all times. Capacity building must be planned and conducted on a long term horizon. However, committed personnel who will serve the institution for a definite period has been uncertain. Such uncertainties which emerge from the basic question of independence and service conditions of ACC defy planning on long term horizon. This deficiency, eventually, will undermine the institutional efficacy of ACC. The fact

remains that if the ACC is to stay relevant and effective, the need to develop its human resources on long term horizon cannot be ignored. Investigations can only be conducted by trained and skilled professionals, with due process and due diligence, aided by modern investigative equipment and tools. The enabling environment is not conducive to fulfill this important capability of human capital and infrastructure.

Corruption is a borderless crime and does not respect state boundaries. A serious challenge that is emerging is involvement of foreigners in corruption, as partners in crime. Some investigations are thwarted or hampered because of either non-availability or non-cooperation by foreigners involved in corrupt practices. As cases become complex and involve huge public resources, dialogue for cooperation through informal and mutual legal assistance with a few countries in the region may become imperative without undermining larger national policies. The issue is highlighted in the conclusion of the report.

While threats from beyond our border are real and urgent, domestic coalition building within is mired in turf wars. With entrenched territorialism for self-preservation, even simple information sharing to support each other is a challenge, especially for investigation where time is critical. Access to common information that exists as database in different agencies is not granted for various lame excuses. Access to such information will lead to intelligence that will be useful in taking prompt actions during investigations. The ACC is aware that right to information must be seen in a balanced way, access versus privacy. Even mindful of this sensitivity from its experience over the years, The ACC believes that this challenge will become bigger when big people and custodians of information are involved as they and their associates, consciously or inadvertently, will place 'official' hurdles in the name of following due process of law. In the process, investigation planning and progress will suffer as it depends on information and cooperation from agencies to a great extent. In the absence of cooperation and prompt responses from agencies, ACC's lone efforts become meaningless. There are no platforms for law enforcement agencies to coordinate and collaborate through sharing of

resources for solidarity against corruption and other crimes. Coordination and collaboration platforms for law enforcement agencies to proactively share their resources are required.

In criminal investigations, the standard of proof is beyond reasonable doubt. In order to fulfill this high standard in the court of law, circumstantial evidence may not be adequate and the clinching evidence must be produced. Such a standard coupled with complexity of cases creates the condition for prolonged investigation period, subjecting the KPI of 60 days limit for investigation for review. Further, the challenge becomes more daunting under circumstances when clinching evidentiary documents and witnesses face the risks of being destroyed or tampered and coached or prepared respectively, by people who have access to them as custodians or colleagues.

Judges and prosecutors must possess sound insights into the dynamics of the modus operandi of corrupt practices. For example, basic knowledge of financial, procurement and contract management, money laundering, etc. in legal fraternity would add value to prosecution and dispensation of justice. Sometimes acquittal of accused based on varying interpretation of laws, not proven beyond reasonable doubt, no benefit to accused, recognition of bribery/gratification as normal transaction between individuals place greater burden on investigators. If nuances of corrupt practices are not understood in the light of the existing management system, for example procurement management, one may miss the whole point. Corruption is not always 'quid pro quo', and may not necessarily reveal immediate or tangible benefits right away. It is quite often a long term cultivation of relationship for future benefits and it is important to break the nexus at every opportunity. Such insights of stakeholders involved in the adjudication of corruption cases will improve the criminal justice system.

Another challenge is different treatment of similar cases, acquittal of cases or reduction of sentences or restitution figures simply based on a broad statement "not proven beyond reasonable doubt" or because regulatory bodies failed to perform their duties or a committee approved it, etc. without succinct substantiation of judgments con-

fuse prosecutors and investigators and more importantly do not provide any counsel for greater efficacy in future investigations and prosecution. The same rationale will also apply to judgments of conviction for public confidence. It is apparent that strict adherence to the basic principles of presumption of innocence and burden of proof require delicate balancing of the trial procedures by the informed, impartial and independent adjudicators. The system reposes much faith in the impartiality of the adjudicators in as much as it confers on them many powers. If the traditional rule relating to burden of proof of the prosecution is allowed to be wrapped in pedantic coverage, the perpetrators of offences would be the major beneficiaries and the State and the society would be the casualty.

Further, investigation into corrupt offences invariably hits institutions, agencies and their employees, directly or indirectly. The judiciary is no exception. Experience counsels that the consequences, direct or indirect for the ACC and its employees cannot be ignored. For instance, when some of the court procedures are neither clear nor standardized it can be subjected to the vagaries of the adjudicators and associated professionals; it can also become an instrument for subtle harassment to the ACC and its employees. This may not be a potential challenge now but the risk is imminent.

Swift investigation followed by swift (not at the cost of justice) prosecution and adjudication form the three cornerstones of effective criminal justice system. Swift processes demand qualified investigators, prosecutors and adjudicators, both quality and number being crucial. As everyone is aware, recruitment and retention of qualified and committed professionals in the ACC and the OAG have been the biggest challenge. Besides, the perennial human resource predicament, the judiciary, ACC and the OAG may have to deliberate on making the processes more effective and efficient.

Prosecution of cases by the OAG has been delayed, some of them beyond two years. As the State prosecutor, OAG is overwhelmed by cases referred to it for prosecution by different agencies. Since its inception, ACC's desire has been

to engage the prosecutors during investigations (not necessarily in investigation per se), especially in complex cases, to gain deeper understanding to aid effective prosecution. The objective of value addition in prosecution through better understanding of cases still remains a desire. The real challenge has been the capacity of the OAG, which is severely constrained by human resource constraint both in quality and number. There are not many senior attorneys to fight the cases. As of March 2015, OAG had seven senior lawyers/prosecutors including the Attorney General, seventeen junior lawyers/prosecutors, nine assistant attorneys/paralegals and eight legal assistants. This issue deserves urgent interventions in terms of building capacity, both in quality and number if criminal justice system is to be effective.

A general guideline exists that a verdict should be passed within 108 days of filing a case in a court. Judgments have been passed by the courts in general fulfillment of this guideline. Delays in dispensation of justice occur due to the appeal and review system of the judiciary. Given the four-tier structure of the judiciary, cases may take minimum of three years for final judgment, if appealed right up to the Supreme. When the Army Welfare Project case was adjudicated, His Majesty commanded, "... *A person guilty of corruption must be punished without fear or favor and without delay..justice must prevail always and without exception... It (corruption) will put to waste the honest labor of good citizens and set wrong example for our youth in whose hands the future of Bhutan lies... Every citizen has the right to equal and effective protection and recourse to the due process of law. But that it is also important to ensure that this sacred right is not abused in order to delay the dispensation of justice. Such delay is detrimental not only to the judicial system and the strength of law, but also to the Royal Government and the people of Bhutan's efforts to keep Bhutan free of the scourge of corruption. Merit must be the only path to success in our country*". Some criminals are taking refuge in the procedure of the criminal justice system. Implementation of His Majesty's Command, both in letter and spirit will result in dispensation of justice without undue delays.

Judgment implementation has emerged as a seri-

ous challenge over the years. There is a general understanding that judgment must be implemented by the executive. Other than this notion, there is no clarity who should implement it. In the absence of a clear system, no one takes the lead. Agencies develop ‘cold feet’ in implementing the judgment of the courts. Enquiring on judgment implementation as a responsibility of taking the case to logical end is perceived as being vindictive. Judgment implementation at best has been done on a case by case basis in the past. Long after the judgments of the courts, restitution or recovery of proceeds of crime or administrative action still remains undone. In the final analysis, without or delayed judgment implementation,

entire cycle of the criminal justice system is rendered ineffective and investigation and prosecution redundant, wasting of huge public resources.

“To eliminate corruption from its roots,” was one of the five offerings that the Prime Minister made on the auspicious occasion of His Majesty’s thirty-fifth Birth Anniversary. It is a reiteration of the Government’s unambiguous policy of “Zero Tolerance for Corruption”. Corruption, indeed, cannot be ignored. Eliminating corruption or fighting it is not a matter of choice; it is also not a matter of simply making strong statements. It calls for strong and unambiguous action, now, from the Government.

“Investigation into corrupt offences invariably hits institutions, agencies and their employees, directly or indirectly. The judiciary is no exception. Experience counsels that the consequences, direct or indirect for the ACC and its employees cannot be ignored. For instance, when some of the court procedures are neither clear nor standardized it can be subjected to the vagaries of the adjudicators and associated professionals; it can also become an instrument for subtle harassment to the ACC and its employees. This may not be a potential challenge now but the risk is imminent”



Building
ACoalition
against
ACorruption

CONCLUSION

His Majesty the 4th Druk Gyalpo's Royal Decree that established the ACC accentuated the fact that with the rapid pace of economic development in Bhutan, people's thinking has changed with self-interest leading to corrupt practices in both the Government and the private sector. Over seven years of democracy has ushered in new opportunities, new challenges, new players and new dynamics; it has also influenced people's thinking with greater self-interest taking precedence over larger public and national interests. Nonetheless, people continue to enjoy peace and political stability. Impressive development statistics instills confidence in the development partners and the policy makers that Bhutan continues to be on the path of progress and prosperity. She is applauded for her strong governance structures and systems, a cornerstone of GNH. While performance and progress is impressive, the lost opportunities due to inefficiency and corruption may reverse it in the long run. Corruption is the most deleterious impediments to development and growth.

Fighting corruption in the country has come of age with the establishment of the ACC in 2006. Messages have been passed across people of all walks of life that corruption is evil and that it must be resisted at all times. People are aware of what corruption is and its ill effects, acknowledge its prevalence in the society and are empowered to act against it. People are no longer basking in blissful ignorance that corruption is not a problem in Bhutan. Successive governments have adopted zero tolerance policy on corruption, mechanisms for institutional support of the government and its various agencies have been put in place, space has been created for the role of CSOs, media, youth and public themselves to help in creating and strengthening institutional support. Modest Anti-corruption capacity has been developed in the parliament, judiciary and public service. Cognizable achievements in preventing and combating corruption have been made as evident from the international rankings and national corruption surveys.

All is not well, however. As highlighted in the last report, the visible achievements are largely driven externally by the ACC. In the beginning external stimulus is necessary and vital but has to be internalized at some point in time, certainly does not need nine years or more. The anti-corruption crusade has not at all been smooth sailing. Mainstreaming corruption prevention measures is a constant challenge despite it being integral to good governance, a policy priority of the Government. Strong laws and systems may be in place but they are as good as their enforcement. Challenges are many and becoming increasingly complex. The report highlighted the challenges of fighting corruption in the country in terms of, among others, organizational weaknesses, high tolerance for corruption by heads of agencies, public servants and citizens, general indifference to corruption and competence of the prosecutors and adjudicators in understanding the dynamics of corruption.

The high level of tolerance and indifference could be stemming from, among others, situations when unethical behaviour is a norm (institutionalization of corruption). It becomes difficult to penalize the offender knowing that there are many others who are equally guilty but not caught or the general attitude of "why punish small people when nothing can be done to the big and the powerful". (Mis)using public resources including time with the "intention" of "adjusting" later may at worst be accepted as a norm or at best may seem as a minor offense never realizing that it is not the only cost. Unchecked and aggregation of seemingly minor infractions can slowly erode political legitimacy to a point where even honest public servants and citizens see little purpose in abiding by the rules, corroding social capital and violating public trust. That is why one often hears people say, "It is cheaper to break the rules and be penalized than to follow the rules". Such a situation creates ample opportunities for individuals to engage in corruption and the motivation to earn extra income through corrupt

means becomes extremely strong.

This report highlighted the performance of the ACC thus far. The report entailed a comprehensive stocktaking of the ACC's activities since its inception in 2006 till the reporting period. Priority of the ACC has been ensuring political will and promoting ethical leadership and integrity; inculcating ethical behaviour through education and awareness programs; promoting cooperation and partnership for a collective alliance against corruption; and strengthening systems to prevent and combat corruption. While the ACC introduced these anti-corruption measures, another priority also has been building itself into an effective and credible institution through setting professional standards, providing adequate and suitable human, material and financial resources, setting a clear and appropriate organizational focus and suitable mechanisms including organizational structure and functions.

Complaints of corruption cases show a declining trend over the years. However, the general trend of corruption has remained the same. Majority of the complaints are still on abuse of functions, resources (funds & properties) are the most vulnerable areas of corruption, Dzongkhag-wise: Thimphu still tops the complaint numbers, agency-wise: local government has the maximum complaints, and the post remains the most preferred mode of complaints. Quality of complaints is still a challenge for the ACC as majority of it get dropped. Further, back-log of complaints to be investigated is also a perennial challenge for the ACC given the human resource constraint; conscious efforts are on to reduce it within the effective means of investigation.

Further, in a democracy the growing collusion of business with politics may damage the prospect of any firm and effective action against those responsible for grand scale corruption in public procurements, natural resources and land, infrastructure projects, loan defaults and scandals in the financial institutions. Corruption in the export and import business in the form of fraudulent trade invoicing may also be widespread resulting in huge tax evasion including outflow of funds because of limited access to INR, etc. Costs of corruption are indeed high. It is glob-

ally accepted that corruption hurts the poor disproportionately, locks them deeper into poverty and silence, increases income inequality because it allows particular individuals or groups of individuals to take advantage of state activities at the cost of the rest of the population, undermines economic efficiency, political legitimacy and justice. As witnessed in many failed and failing states corruption and corrupt leaders have been a paramount cause for political instability, which can be a potential threat to security. Bhutan a small nation with a small population in a sea of challenges cannot afford such a situation at all.

An issue that has never been discussed either in past or in this report is the importance of forging regional coalition against corruption. Corruption is borderless and flourishes everywhere including South Asia. World leaders and economic fora recognize that corruption destroys public trust, undermines the rule of law, skews competition, impedes cross border investment and trade and distorts resource allocation; that corruption continues to be a significant threat to global growth and financial stability. Regional and global realities have counseled leaders to forge alliances with a common agenda for greater and lasting impact on development, growth and security than lone drive against corruption or terrorism.

For example, ASEAN's SEA-PAC has established strong ties in facilitating members in anti-corruption investigation and prevention efforts. It has made significant efforts in building a strong public and private sector co-operation in order to enhance anti-corruption compliance in the sectors. A working group is also expected to study and discuss the possibility to include SEA-PAC as an entity under ASEAN, a proposal to establish an ASEAN Ministerial Meeting on Anti-Corruption, Good Governance and Integrity. The Group of States against Corruption (GRECO) of the Council of Europe with the objective to improve the capacity of its members to fight corruption monitors the members' compliance with anti-corruption standards of the Council. Among others, it also provides a platform for sharing of best practices in the prevention and detection of corruption. G20 as a group of the world's largest economies, recognizing the significant negative impact of corruption on economic growth, trade

and development remains committed to reducing incidence of corruption and building a global culture of intolerance towards corruption. Its Anti Corruption Working Group has developed the 2015-16 G20 Anti-Corruption Action Plan. There are also numerous networks like the Global Organization of Parliamentarians Against Corruption and the African Parliamentarians' Network Against Corruption, which is Africa's leading network of parliamentarians working to strengthen parliamentary capacity to fight corruption and promote good governance.

Although South Asia region is deeply afflicted with corruption, it has never been on the agenda of the leaders' deliberations. Its peoples perceive corruption as being part of life and deeply embedded in politics. Corruption is an inherent issue of the SAARC Regional Convention on Suppression of Terrorism that came into force on 22 August 1988 following the ratification by all Member States. Leaders cannot afford to shy away from discussing about corruption, making it integral part of the SAARC development agenda and responding to the aspirations of over 2 million people of the region captured by UN's My World Survey 2014 and the young millennials' voice against corruption and poor transparency. Bhutan's impressive anti-corruption achievements may be undermined by the economic and political challenges of the region in due course of time.

In conclusion, while Bhutan is making good progress, it is important to understand that more needs to be done to overcome the scourge of corruption. Among others, strong culture of integrity, committed ethical leadership, robust anti-corruption systems and infrastructures and a vigilant society

to effectively fight against corruption in the country have become the order of the day. It is also important to acknowledge that just as the country is increasingly becoming indebted (regardless of justification and its temporariness), the trust and integrity deficit and the gap between the rich and poor may also be increasing.

Further, it is equally important to take into cognizance public perceptions that politicians and political parties place self interest before larger national and public interests; elected and appointed public servants prioritize self-service over public service; in public service right is not right because most do not care about it and wrong is not wrong because it is the accepted norm; most public servants and business entities have no qualms about exploiting the country's vulnerability to make fast money (e.g. INR crisis and natural disasters); youth do not care about anything and anybody but themselves; citizens are shy to bear any responsibility until they or their relatives are affected or see personal benefit; government investments and subsidies are not generating the corresponding employment opportunities and revenue, rather they are benefiting few people and their shadow business partners; substantial revenue is privatized with the help of regulators who greedily enrich themselves with illicit wealth pushing the country further away from her goal of self reliance.

Perceptions cannot be dismissed as unfounded because underpinning them is public trust in institutions of governance. If they are unfounded, enhance transparency in how business is conducted and improve communications; but if they are real, the underpinning issues have to be discussed, acted upon transparently and actions tak-

“It is no longer a question of whether we can do it or whether we can't. It is a question of whether we get up and do it. It is a question of whether we care enough about our future”

His Majesty's Address @ 2013 NGOP

en communicated to the public effectively. Unless the underpinnings of larger governance and ethical issues of the above are addressed, penalizing individuals for embezzling public resource or abuse of office or making some semblance of corrections to the system will be unsustainable, superficial and a travesty. Leaders, public servants and citizens of the GNH nation may have to do deep soul searching if the nation must always remain secure, sovereign, self-reliant, inclusive, green, harmonious and prosperous.

The clarion call of the hour is fundamentally what His Majesty said in 2010 at Changlimithang and Kolkata, *“There is a higher responsibility -*

not written in any legal document but instead enshrined in humanity and history - a natural responsibility and duty that we all must shoulder equally, irrespective of who we are. Of paramount importance to the strength of a nation, is the ability of her people to live as one united family - a community in which interaction is marked by trust, understanding and cooperation. What we need is not a leader to lead the masses – we need leadership of the self”.

Leaders and the Government of the day have to set the tone and lead the way!

“May all public servants be free from the human trappings of the 8 worldly dharma: Wanting to be praised and not wanting to be criticized; wanting to gain and not wanting to lose; wanting to be famous and not wanting to be ignored; wanting to be happy and not wanting to be unhappy”

ACC’s aspiration prayers

Celebrating 9 years of Anti Corruption



- Launched E-Learning course on Ethics and Integrity Management in Parliament and Judiciary
- Launched the NIACS 2014-18 an operative of the anti-corruption policy of "Zero Tolerance for Corruption".
- Launched the 20th BY 2020: BHUTAN'S DRIVE FOR IMPROVED GOVERNANCE at ADB Headquarter and later in Bhutan.
- Cabinet approves proposal to ratify UNCAC.
- BTI registered as CSO in Bhutan.

2014



- Prosecution of Gyelpozhing case
- Completed advocacy program in 205 Geowgs
- Social accountability initiatives introduced
- Debarment Rules 2013 adopted
- Guideline for investigation of corruption in the private sector developed

2013



- Asset Declaration Rules 2012 adopted
- 1st Bhutanese trained in the FBI Academy in the US
- National survey on values education on schools conducted
- ACC operates from its new facility consecrated by HH Je Khenpo
- Complaints management protocol adopted
- Developed ACC Change Management Plan and implemented

2012



- Investigation Management System developed and implemented for managing complaints
- Amended Anti-Corruption Act of 2006 passed as the Anti-Corruption Act of Bhutan 2011.
- ACC hosted the South-South exchange program
- Institutional development plan (2011-2020) developed
- E-learning on ethics and integrity launched – partnered between RIM, ACC, RCSC

2011



- NIA 2009 launched with a score of 7
- Capacity assessment of ACC by UNDP/UNODC carried out
- CRM was adopted and piloted in ACC.
- On-line AD System developed and launched AD verification protocol+system study protocol.
- Prosecution referral guidelines adopted
- ACC officials granted a Royal Audience
- Self-Assessment of domestic laws vis-à-vis UNCAC conducted
- Improved draft debarment rule

2010



- The National Anti-Corruption Strategy Framework was adopted
- 2 proactive system studies in rural timber allotment and mineral management conducted
- ACC officials granted a Royal Audience
- Rules of Procedure for Commission Meeting developed and implemented for all Commission Meeting
- Corruption module developed for inclusion in the non-formal education curriculum

2009



- 1st investigation on elections (Gelephu) (candidate disqualified by ECB)
- Major investigation in mining industry
- ACC Ethical Code launched.
- Asset Declaration Rules (ADR) and Gift (Restriction) Rules adopted for implementation.
- Formulation of complaints persuasibility (P) form and complaints management system
- His Majesty conferred Druk Thuksey and red scarf to the Chairperson

2008



- ACC became the 28th member of the ADB/OECD Anti-Corruption Initiative for Asia-Pacific Region.
- A Corruption Perception Survey conducted and published.
- The Crown Agents report on institutional development of the ACC finalized
- 13 people join the ACC on His Majesty's Command
- Draft operational manual in place

2007



- Royal Decree to establish the Office of ACC established with 4 people
- 85th session of the National Assembly passed the Anti-Corruption Act of Bhutan 2006.
- Bhutan features for the 1st time in the TI CPI. Ranked 32 among 163 countries with a score of 6.
- December 10-16 declared as Anti-Corruption Week in Bhutan.

2006

TASHICHODZONG THIMPHU, BHUTAN

His Majesty's Kasho (Royal Decree)
English Translation

It is hereby decreed that Foreign Secretary Neten Zangmo is transferred and appointed as the Chairperson of the Anti-Corruption Commission until the new parliament is formed when the Constitution is adopted and parliamentary democracy is established in our country.

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

Corruption-free week
17 December

INTERNATIONAL ANTI-CORRUPTION WEEK 2006

If you care, you will dare!

Nation's Conscience

Lead by Example!

Annexure

MILESTONES December 2005 – March 2015

2005

- 31 December: Royal Decree issued establishing the ACC and appointing the incumbent chairperson.

2006

- 4 January: ACC established with 4 people - chairperson, driver, office assistant and finance officer;
- 13 January: Finalized a framework of ACC's operation: its mission, vision, code of conduct, values, standards, strategies and an action plan;
- January (whole): Internal review of the Anti-Corruption Bill 2006 (Bill);
- 3 February : 1st consultation of the Bill with major stakeholders (series of consultations conducted);
- 13 February: 1st letter of introduction, situational analysis and expectation of the ACC submitted to Prime Minister & Secretaries;
- February: 2 commissioners appointed;
- 2 & 10 March: 1st call on to the Prime Minister, Chief Justice and Speaker;
- 14 March: Chief Justice presided over the oath taking ceremony of the commissioners;
- 15 March: 1st institutional development project signed with UNDP;
- 28 March: Establishment of RAA-Internal Audit Units of Ministries-ACC tripartite forum for better coordination (initially managed by ACC);
- 30 March-4 April: 1st round of discussions with stakeholders (including BCCI, TAB, CAB & Exporters' & Importers' Association in preparation for the anti-corruption strategy);
- 11 April: Stakeholders consultative workshop to draw up NACS; was also the 1st national level sensitization workshop; launched ACC website and released its information leaflet; 138 participants from DYT & GYT (only Thimphu – 2), government agencies, corporations, armed forces, BCCI, NGOs & media;
- 12 April: 1st keynote statement at “Annual Engineering Conference: Towards a Corruption-free Construction Industry”;
- 17 April: 1st interactive session with Kuensel & BBS (Managing Director, Executive Director & their senior managers/editors);
- 25 April: 1st interview with BBS radio;
- April: Began work on service standards with the Department of Survey & Land Records (a workshop was conducted with resource persons from the Centre for Good Governance, India);
- April: Started public education and advocacy program which covered local officials, public, teachers and students of 8 dzongkhags;
- 4 May: 1st participation in BCCI's Annual General Meeting;
- 9 May: 1st one-day workshop by Dr. George Larbi on prevention of corruption through systemic analysis, advocacy & education and improving ethics, standards in public service & asset declaration (attended by over 50 participants from Royal Advisory Council, ministries, BCCI, NGO and media);

- 11 May : 1st presentation of Bill to the Lhengye Zhungtshog (cabinet);
- 31 May: 1st sensitization meeting in the dzongkhag (with Paro);
- 5-24 June: 1st international visit to law enforcement and anti-corruption agencies in Switzerland, UK, Hong Kong, Singapore, Malaysia & Thailand;
- 25 June: 1st sensitization meeting with *chimis* (parliamentarians), councilors and dzongdas (85th NA Session) chaired by Speaker;
- June: 1st case investigated - Procurement in Natural Resources Training Institute (now called College of Natural Resources, Lobesa) (administrative sanctions imposed);
- 3 July: 85th National Assembly session passed the ACAB 2006;
- 12-15 July: 1st visit to Central Vigilance Commission (CVC), CBI, Ministry of Personnel, Public Grievances & Pension & Transparency International (India Chapter) in India;
- 2 August: 1st ministerial interaction (Ministry of Labour & Human Resources);
- 8 August: Awareness and interactive session on values and ethics for ACC staff (facilitated by former RIM Director, Dasho Meghraj Gurung);
- 25 August: 1st interaction with heads of tertiary institutes (during the 7th COP meeting);
- 31 August: 1st (and last) press conference & interaction on “Working together”;
- 31 August: 1st coordination meeting with dzongdags on anti-corruption measures;
- August: 1st investigation related to rural land (Gelephu) (convicted & land restituted to the State) (assistance provided by Ministry of Agriculture & Forestry);
- August: 1st meeting with citizens, Shogphu gewog (over 400 people attended);
- 27 September: 1st capacity development project signed with DANIDA;
- September: 1st investigation related to urban land (Thimphu City Corporation) (convicted & land restituted to the State and legitimate private land owners);
- September: 1st investigation of a corporate body (RICBL) (acquitted of criminal charges; however, recoveries and administrative sanctions imposed besides advisory on systems improvement);
- November: 1st investigation of local government (Nyshio gewog) (acquitted from criminal charges by the appellate court but money restituted);
- 9 December: Service standards on land transaction and issuance of driving license released on the IACD. December 9-17 declared as NACW in Bhutan. 1st ACC news letter released (stopped after 2nd issue);
- December: Bhutan featured for the 1st time in the TI-CPI ranking. Ranked 32 among 163 countries with a score of 6 (scale of 0-10); and
- December: Asset declaration system implemented for the 1st time.

2007

- 12 January: 1st retreat – discussed vision, mission and values of ACC at Kichu Resort, Chuzomza, Wangdue (2nd retreat in January 2012 at Samtse College of Education to revise operational manual and foster better, deeper and cordial understanding amongst staff; and 3rd at Chunidhing Resort, Babesa in October, 2012 to discuss change management- restructuring in particular);
- 20 February: 1st good governance project signed with SDC;
- March: Awareness and advocacy program in

schools started with Nima HSS (covered 33 schools across the country);

- 8 April: 1st Road show on youth and elections (16 shows in various dzongkhags);
- 11 June: 1st Annual Report presented to the National Assembly by ACC (87th session);
- 19 June: Working Group on SCM (reduction of administrative burden) established;
- 22 June: 1st coordination meeting with BCCI and private sector: private sector assuming its vital role in anti-corruption initiatives;
- Drafted the 1st operational manual;
- 3 September: Bhutan became the 28th member of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific;
- October: 13 people join the ACC on His Majesty's Command including the 2nd Commissioner, replacing Aum Dorji Choden who resigned to join politics;
- December: 1st Corruption Perception Survey conducted and report published (established the baseline for assessing trends, causes and forms of corruption in the country); and
- December: Finalized Crown Agents report on 'Review of the ACC and Progress on the Development of NACS'.

2008

- February-March: Carried out road show together with Triple Gem Media Infotainment (TGMI) to create awareness on elections (covered over 40,000 citizens in 15 dzongkhags) (ACC teams were also deployed in various vulnerable dzongkhags for surveillance to deter corruption in politics);
- February : 1st investigation into elections (Gelephu) (candidate disqualified by ECB);
- June: 1st major investigation into mining

industry (recommendations on systems improvement shared) (convicted);

- June: Produced the ACC theme song;
- 11 July: Ethical Code of Conduct launched. Code also expected to be a model for other agencies;
- August: Piloted SCM in RSTA (SCM is a tool that monetizes time taken to obtain a service from a service providing agency resulting from administrative burdens);
- 16-17 October: Asset Declaration Rules and Gift (Restriction) Rules discussed with stakeholders in a public forum and adopted the same for implementation;
- Formulation of complaints pursuability (P) form and complaints management system; and
- December: His Majesty conferred Druk Thuksey and red scarf to the chairperson (offered the medal to the office for future employees to draw inspiration from it).

2009

- January: Launched report on 'People's Attitude towards Corruption and ACC. The survey was conducted from June-December, 2008;
- 26 March: Government adopted NACS as a national document for implementation by all agencies to curb corruption. CoS entrusted with the role of implementing and monitoring NACS;
- June: 1st proactive system studies conducted on rural timber allotment and mineral management;
- June: Rules of Procedure for Commission Meeting developed and implemented;
- August: Started investigation into health procurement and referral of patients (some

closed & some under trial);

- Revision of investigation manual: Development of 40 different forms for standardization of working procedures to ensure due process of law; and
- Corruption module developed for inclusion in the non-formal education curriculum.

2010

- February: On-line AD System developed and launched; trained 460 ADA;
- March 2010: 1st investigation into hydro-power project (bribery involving expatriates) (convicted);
- April: Report on 1st NIA survey launched;
- 1 March-9 April: Self-Assessment (SA) of domestic laws vis-à-vis UNCAC conducted with a dedicated full-time team of 18 experts drawn from various agencies for over a month;
- 9 May: ACC received a 13 member delegation from NACC, Thailand as part of its networking activities. ACC signed MoU with NACC.
- June: 1st session with Central Monastic Body (sensitization on NACS & general collaboration);
- June: Presentation on NACS to the judiciary & armed forces;
- August: Finalized capacity assessment of ACC carried out by UNDP/UNODC;
- 28 October: 1st meeting of the four constitutional offices (met five times, last being on 6 August 2012); and
- October: CRM adopted and piloted in ACC.

2011

- 13 January: IMS developed and implemented;
- 24 March: Adopted Prosecution Referral Guidelines (to ensure consistency of action in referring cases for prosecution or administrative actions);
- 28 March: Finalized and adopted AD verification & system study protocols;
- April: 1st investigation into development assistance project (Road network project funded by ADB) (foreign firms & expatriates involved; convicted);
- 5 July: Amended ACAB 2006 & passed ACAB 2011; a standalone anti-corruption act;
- 11-14 July: ACC hosted the South-South exchange program and received 15 member delegation from anti-corruption agencies of Maldives and Timor Leste (funded by UNDP);
- 5 August: Signed MoU between ACC, RCSC & RIM on e-learning on ethics & integrity for civil servants;
- September: Investigation into Gyelpozhing land allotment case;
- September: Institutional development plan (2011-2020) developed by a team of consultants (ADB funded);
- 23-30 November: Received 4 member delegation from Directorate on Corruption and Economic Crimes, Botswana;
- 9 December: Launched e-learning on ethics and integrity for civil servants (partnership between ACC, RCSC & RIM; funded by DANIDA); and
- December: Signed MoU with 6 CSOs, namely ABTO, BAOWE, BCMD, GAB, RENEW & Tarayana Foundation.

2012

- 9 January: Asset Declaration Rules 2012 adopted;
- 28 May: 1st visit by Director, CBI; ACC's return visit followed in August (networking and partnership building);
- August: 1st Bhutanese trained in the FBI Academy in USA;
- August: ACC operates from its new facility, consecrated by HH Je Khenpo (Chief Abbot);
- 19 September : OAG returns Gyalpozhing case to ACC on grounds of having no legal basis;
- October: Integrity program launched at Changkha MSS;
- 14 November: ACC registered Gyalpozhing case in Monggar Dzongkhag Court (criminal component; Monggar Dzongkhag Court passed judgments on 8 March 2013 & 8 May 2014) (1st case prosecuted by ACC);
- 19 November: Petition filed by OAG before the High Court against suspension order of speaker & home minister issued by ACC (judgment rendered by High Court on 30 November; appealed by ACC; directives rendered by the Supreme Court, 17 July 2013);
- 4 December: OAG files petition before the High Court challenging ACC's prosecutorial power (dismissed by the High Court on 6 December) (source: BBS & Kuensel);
- 10 December: Chairperson delivered keynote address at the ADB HQ on the occasion of IACD; case on ADB funded road network also presented;
- 18 December: Signed MoU between ACC and Loden Foundation; and
- 31 December: 1st Founding Day observed. Graced by His Majesty the King.

2013

- 28th January: Information sharing and interactive sessions completed with 9 ministries (started with 1st ministry on 18th July, 2012);
- NIA Report 2012 launched (covered 379 services from 107 departments/agencies involving 67 independent organizations);
- 13 February: Restructuring along sectoralization adopted to synergize the three pronged strategies;
- 5 April: Signed MoU with OAG;
- April: Bhutan Transparency Group (BTG) formed with initial support of the ACC and TI. BTG formally registered as BTI in November, 2014;
- July 2013: BIG's Report on 'Study on Measures to Safeguard the Constitutional Role of Anti-Corruption Commission of Bhutan' finalized;
- 6 August: Signed MoU with RSTA;
- 20-23 August: Sensitization workshop on social accountability attended by 25 participants from Parliament, local government, Local Governance Divisions of GNHC & MoHCA, CSOs and academia;
- 19 September: Signed MoU with CDB;
- 27 September: Signed MoU with YMC;
- September: 1st investigation into fraud/embezzlement in financial institution (BOB) (convicted and money restituted);
- October: Debarment Rules 2013 adopted and published;
- November: 1st investigation into immigration services that led to investigation into the nexus of INR repatriation;
- 9 December: Launched national survey report

on 'Integrity and Value Education in Schools 2012';

- 16 December: 17 staff receive civil service awards (certificate and medal);
- 23-27 December: Piloted ToTs in CRC in Samtse (19 participants) and & CSC in Gelephu (21); and
- 30 December: Signed MoU with MoFA.

2014

- 6 February: MoU with NACC renewed for another 3 years;
- 20 February: Adopted Grievance Redressal Mechanism in ACC;
- February: 1st investigation related to INR repatriation (under prosecution by OAG; registered in Court on 7 April, 2014);
- 9 April: Signed MoU between Royal Court of Justice, NA & NC Secretariats, ACC & RIM;
- 22 May: Signed MoU with RIM on collaborative research works, to promote a culture of quality research;
- 26-27 May: ACC visits Dakar, Senegal, to share Bhutan's experience on "Asset Disclosure" with participants from central and western Africa;
- 2-6 June: 1st training on "Financial Investigation & Asset Recovery" for enforcement agencies conducted by International Centre for Asset Recovery of BIG, Switzerland (3 such trainings conducted in October 2014 & February 2015) (trained a total of 79 participants from Judiciary, ACC, RAA, OAG, RMA, DRC, Drug Regulatory Authority, Bhutan Narcotics Control Authority, BNLI, RBP & financial institutions);
- 21 June: Launched e-Learning course on Ethics and Integrity Management for Parliament and Judiciary by HRH Ashi Sonam Dechan Wangchuck, President of BNLI at RIM;
- 23 June: Prime Minister launched NIACS 2014-2018 at the Banquet Hall;
- 1 July: Signed MoU with NLCS;
- 1 July: Signed MoU between ACC, DLG and RIM on SA initiatives;
- 9 July: Signed MoU with RMA;
- 15 July: 1st SA presentation to the Cabinet (part of quarterly engagement);
- 4 August: Completes 1st round of advocacy program in 205 Gewogs- last gewog being Naro, Thimphu dzongkhag;
- 14 August: 1st session with CoS (presented SA and NIACS) as part of ACC's quarterly engagement policy;
- 18 August-10 September : NIACS rolled out to 10 ministries, 20 dzongkhag & 4 thromdes (municipalities);
- 4 September: SA trainings by ACC, RIM and DLG with support from 22 trainers from MKSS and SSAAT, India in selected local schemes in five gewogs of Thimphu;
- 19 September: Launched ADB's publication titled, "20th BY 2020: BHUTAN'S DRIVE FOR IMPROVED GOVERNANCE" in Thimphu by the author of the book, Mr. Gambhir Bhatta, Principal Knowledge Management Specialist, ADB (officially launched by Prime Minister on 5th September, 2014 at ADB Headquarter) (RAA & ACC seen at the vanguard of work on good governance in Bhutan);
- 7 October: Cabinet decides to ratify UNCAC;
- October: 1st enquiry related to CoI (report submitted to the PM in March, 2015);
- 17-21 November: 1st training on ethics & integrity management conducted by MACC & MACA (2nd such training was conducted

in March 2015) (93 participants from ministries, dzongkhags, autonomous agencies, corporations, private sector, media and CSOs trained); and

- 13 & 15 December: 1st in-dialogue session with hydropower projects [Dagachhu Hydro Power Corporation and Mangdechhu & Punatsangchhu Hydroelectric Project Authority I & II]

2015

- 5-9 January : 1st Bhutan Private Sector Integrity Program started with TI Malaysia's support;
- 15 January: 1st investigation related to commission and conflict of interest in hydropower project (investigation on-going);
- 13-15 January: 1st sensitization workshop on

CoI conducted for 120 participants from 52 public and private agencies, facilitated by Mr. Richard Edward Messick, anti-corruption expert from Washington D.C;

- 2 March: Launched report titled 'Review of Ethics and Integrity Infrastructure in Bhutan' by UNDP, Regional Center, Bangkok (review conducted from 28 July-1 August);
- 9 March: Signed MoU between ACC, OAG & RBP on investigation & prosecution of private sector corruption;
- 11 March: Signed MoU with MACC, Malaysia;
- 16-24 March: Conducted 1st basic investigation trainings in 3 regions covering 67 trainees from all dzongkhags; and
- 1 April: Signed MoU with BTI.

“Corruption breeds inequality and injustice. Corruption benefits only a few; it burdens the nation and her citizens. Fighting corruption is integral to good governance. National prosperity hinges on quality of governance and governance on quality of leadership”

ACC's 1st letter to PM & Secretaries

དཔལ་ལྷན་འབྲུག་གཞུང་། ངན་ལྷན་བཀའ་སློམ་ལྷན་ཚོགས།

ROYAL GOVERNMENT OF BHUTAN
ANTI-CORRUPTION COMMISSION

"NATION'S CONSCIENCE"

THIMPHU, BHUTAN

ACC/Action-12/2006/40

February 13, 2006

"Although Bhutan had 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."

Shabdrung Ngawang Namgyal

Honorable Prime Minister,
Cabinet Secretariat,
Tashichhodzong

Honorable Lyonpo,

The Office of the Anti-Corruption Commission started functioning over a month ago. We have been engaged in reviewing the Anti-corruption Bill, drafting of a conceptual framework of its operation (a preliminary draft enclosed), drawing of work schedule for 2006, finalization of UNDP Project (establishment & capacity development package), collecting materials from other countries and organizations, recruitment and establishment of the office. Sir, we fully recognize the daunting challenges in discharging the important responsibilities. The Royal Government's aspirations will be our mission. We are confident and determined that we will succeed in fulfilling the mission but only with the genuine and sustained support, morally and materially, of the ministries, agencies, Dzongkhags, Gewogs, private sector and the people at large. It is our ardent hope that the deep concerns over growing corruption will translate into sustained and collective efforts to combat the moral disorder.

Corruption is a silent crime that is sustained by weak systems and lack of accountability. It is a symptom of degeneration of moral order of a society. It breeds inequality and injustice and seriously undermines the Royal Government's ability and desire to provide effective and basic services to the people. It hurts common people the most.

A credible, responsive and a dynamic Public Service is intrinsic to good governance. Public servants implement policies, plans and programme. His Majesty always and particularly has been concerned over the efficiency, effectiveness and morale of civil servants. In 1984, the RCSC was commanded to revitalize and invigorate the administrative machinery to make it more responsible, accountable and effective, which still remains a priority of the Royal Government. In 1999, when the country commemorated the Silver Jubilee of His Majesty's progressive and peaceful reign, it was again His Majesty's desire that the occasion be an opportunity to take initiatives to enhance the ability of the Royal Government to be sensitive and responsive to the needs of the people and to raise public awareness and determination to prevent the evil of corruption from taking root in our society.

Sir, drawing general guidance from the Royal Government's concerns over growing corruption and its aspiration for a united, secure, just, peaceful, prosperous, and happy nation, fully recognizing the indispensability of collective efforts and the critical role of the people, our principal strategy will be a coherent and a comprehensive approach of in-house capacity development and networking, prevention, education and advocacy and prosecution.

The major player in the national strategy to combat corruption must be the Royal Government itself, it has to spearhead the fight. The setting up of the Anti-Corruption Commission and enactment of the enabling legislation, we believe, are only the necessary first steps in the design of a national strategy. Besides the Commission will be as effective or ineffective as the Royal Government and the people want it to be.

Public confidence is critical and it can only grow if people realize that the Royal Government is sincere in its anticorruption drive – manifested in the values that ministries, agencies, other public entities and the Commission espouse and promote, services that they provide to the people and more importantly actions that they mete out against corrupt officials. Some good work in attacking defects only at lower levels will be just a travesty of a serious anti-corruption initiative. Corruption is generally believed to thrive when people receive meager salaries. However, if higher salary were a solution, every salary revision by the Royal government should have “cleaned” the system. Higher salary without strong will and commitment to change attitudes and to strictly enforce anti-corruption regulations perhaps is a non-starter. Curbing corruption is about changing attitudes, changing negative habits and behavior. It is unfortunate and ironical that Bhutanese as Buddhists has developed a high tolerance for corruption, undermining the morality enshrined in Buddha's Noble Eightfold Path. If inaction against corrupt people continues, a culture

of impunity will become entrenched breeding more corruption, which will be costly – spiritually, socially, politically and economically, to the people and the country.

Sir, empirical studies have revealed that magnitude of corruption in developing countries in Asia is at 30-40% of the annual budget. We may be quite close to the range considering the levels of corrupt practices. In 1999, the Centre of Bhutan Studies conducted a study on various forms of corruption in our system. The revelations were certainly not surprising or unknown. Such forms of corruption are still rampant. The inherent weakness in organizational administration and management and perhaps some structural deficiencies in the system are attributable to the rampancy. Corruption is a cancer but it can be malignant if it is not addressed – NOW.

Some common forms of corruption are: (i) manipulations of estimates (construction alone accounts for 30-35% of an annual budget – Nu. 4627-5398 million for 2005-6 (FY), (ii) tendering (public servant-private sector and private-private sector collusions), (iii) payments for unexecuted works or undelivered goods, (iv) procurement (accounts for about 25-30% of the annual budget) (quantitative and qualitative manipulations; fictitious and unnecessary purchases), (v) monopolies, (vi) actions by officials against the principles of meritocracy that impinge on the performance and morale of public servants (remuneration accounts for about 15% of the total annual budget – Nu.2313 million), (vii) misuse of training opportunities (accounts for 5% of the budget-Nu771 million), (viii) weak and discriminate enforcement of rules and regulation, (ix) intentional delays of approvals and clearances that lead to cost escalation, (x) illegal ownership of government land, (xi)provision of unnecessary budget heads, (xii) consultancies, (xiii) fronting,(xiv) ad hoc development programme, (xv) misuse of natural resources (consequent costs of such malpractices are high), (xvi) misuse and abuse of government properties and facilities including office time, (xvii) misuse of public servants for private work, (xviii) embezzlement of funds, (xix) manipulations in air ticketing, (xx) manipulations of bills including double and false claims (e.g. rampancy of false and unjustified TA/DA claims; monitoring payments during financial year closing may be revealing; TA/DA accounts for 5.5% of the budget – Nu. 848 million for 2005-6 FY), (xxi) pilferage of properties, stores and vehicle parts including fuel, (xxii) rentals and hiring, (xxiii) revenue leakage, (xxiv) underassessment of auction items, (xxv) manipulations of vehicle accident reports and insurance claims, (xxvi)“kidu” (by officials) endorsements (not corruption but “generosity” at the cost of the government) and (xxvii) misuse during *chadi*.

Acknowledging the political will at the highest level, comforted by the fact of being small and corruption still being within manageable levels, being convinced that every Bhutanese, every agency and the private sector are seriously concerned about corruption in the country and are genuinely determined to address the social ill with SUSTAINED WILL and COMMITMENT, the Office of the Anti-Corruption Commission urges all the Honorable Ministers, Parliamentarians, Judges, Generals, Brigadiers, Secretaries, Managers, Heads of all public entities, Local Leaders,

Principals and the private sector to immediately take measures (if not done despite the GG+ report) to address corruption or inefficiencies in your organization.

Sir, such an initiative, however, should not be misperceived as an imposition from the Commission. Such initiatives are management imperatives that promote efficiency, transparency, accountability and professionalism – values that the Royal Government has been espousing for the last three decades or so. Regardless of the Commission's intervention, it is an important and an inherent component of every ministry's and agency's responsibility. The Commission will monitor closely and follow-up on the initiatives that the ministries, agencies, Dzongkhags, Gewogs and the private sector take. Impact of the initiatives should clearly reflect qualitative (organizational culture, attitude, etc. – although culture cannot be changed overnight) and quantitative (savings, action time, etc.) measures. The Commission will seek such measures while monitoring the implementation progress as a first step of its larger anti-corruption strategy. Combating corruption is also an important component of the GG+ document, a gift that we offered to His Majesty on His 50th Birthday.

Besides the recommendations made in the GG+ Report, in few organizations a total overhauling may be imperative and urgently so to create an effective platform to initiate any anti-corruption measure at all for which the RCSC should provide full support. Rules and procedures particularly related to service provisions, procurement and tendering need to be simplified and innovative. Public servants, particularly in vulnerable sectors, need to be transferred regularly (as also in the BCSR 2002). Ensure effective and indiscriminate enforcement of laws, which will warrant re-orientation of organizational culture and close monitoring. Promote aggressive ICT application for efficiency. **BESIDES WILL, COMMITMENT AND INNOVATIVENESS, NO ADDITIONAL RESOURCE IS REQUIRED.**

The Position Classification System (PCS) having been introduced, afore mentioned initiatives should also be a factor for measuring performances of managers at all levels (heads of units, etc.) including the Secretaries. We hope that the civil servants particularly the senior officials, being convinced of the PCS's virtues, will take the ownership of the policy and implement it in SPIRIT and form.

Sir, the Royal Government should make corruption as an agenda for cabinet discussions. Honourable Ministers, Parliamentarians, Judges, senior officials and local leaders must make personal statements as their determination to fight corruption, waste and inefficiency in areas under their control. Political will is of paramount importance for the Royal Government's drive against corruption. Integrity and incorruptibility of leaders at all levels will be critical in making or breaking the country. In Bhutan, the strong political leadership committed to fighting corruption and promoting an anticorruption culture at the highest level offers a firm foundation to

sincerely address the social sickness. With the strong political will, demonstrated by clear personal examples of senior leaders and sustained enforcement action, Bhutan will be recognized as a country that is serious about countering corruption.

Combating corruption is a collective responsibility and it is time for collective action. We look forward to the persevering support of all the ministries, agencies, Dzongkhags, Gewogs and the people at large in fulfilling our common goal of a secure, just, peaceful, prosperous and happy nation.

With respect.

Yours faithfully



Neten Zangmo
(Chairperson)

Copy to:

1. Secretary to His Majesty the King, Tashichhodzong;
2. Secretary to HRH The TrongsaPenlop, Tashichhodzong;
3. Auditor General, RAA;
4. Secretary, Cabinet Secretariat, Tashichhodzong; and
5. Secretary, RCSC Secretariat.

ACC's Letter to Tshogpon (Speaker)



དཔལ་ལྷན་འབྲུག་གཞུང་། ངན་ལྷན་བཀའ་སློམ་ལྷན་ཚོགས།

ROYAL GOVERNMENT OF BHUTAN
ANTI-CORRUPTION COMMISSION

"NATION'S CONSCIENCE"
THIMPHU, BHUTAN



ACC/ COM-02/389

06 April 2015

Honorable Tshogpon,
National Assembly of Bhutan,
Gyalyong Tshogkhang.

Subject: Legislative Intent of Independence of Anti-Corruption Commission

Sir,

The Anti-Corruption Commission (Commission) has the honour to submit that it has relentlessly pursued with the Parliament on its independence as guaranteed by the Constitution of the Kingdom of Bhutan for the very reasons that the Chairman of the Drafting Committee of the Constitution explains in his book, titled, "The Constitution of Bhutan: Principles and Philosophies". Under Article 27, Section 1, he elaborates, "This section establishes an independent Anti-Corruption Commission headed by a Chairperson comprising of two (three) members. Similar to other constitutional bodies, the Anti-Corruption Commission is an independent body shielded from political or insulated from other influences. This independence is the sine qua non to discharge its duty without fear or favour as subordination is servitude. The Commission has full authority to act against all forms of corruption. This provision empowers the Commission to take necessary steps to prevent and combat corruption. It is a great power with great responsibility that requires protection and support of the Constitution to function independently". (page 449)

Sir, you may recall the justifications and explanations that the Commission submitted to the Parliament through its successive annual reports. The Basel Institute on Governance, Switzerland also conducted an independent study and its report, titled, "Study on Measures to Safeguard the Constitutional Role of the Anti-Corruption Commission of Bhutan", which was also shared with the parliamentary committees. All parliamentary resolutions re-

lated to the critical issue are temporary measures that do not address it in the long term. As submitted in the past, the Commission wishes to reiterate that it cannot be subjected to the vagaries of personalities, entities and political environment.

The Commission, having operated for over nine years now, is convinced that to fulfill its challenging mandate its independence in all aspects has to be guaranteed as provisioned in the Constitution for which the Honorable Supreme Court's intervention has to be sought. This was also one of the recommendations of the Good Governance Committee's Report of January 2014, submitted to the National Assembly. Unless the Commission moves the Court, it does not have the authority to pursue the matter with the Honorable Supreme Court.

Sir, the Commission humbly submits that if corruption has to be combated without fear and favour, insulating itself from any external influence, and to be fair to the people who are working in the Commission the long pending issue of its independence has to be resolved in line with the legislative intent of the provision in the Constitution.

Thank you, Sir.

Yours faithfully,



Neten Zangmo
(Chairperson)

Copy to:

1. Honorable Prime Minister of Bhutan, PMO, Gyalyong Tshogkhang;
2. Honorable Chief Justice of Bhutan, Supreme Court of Bhutan, Royal Court of Justice;
3. Honorable Chairman, National Council of Bhutan, Gyalyong Tshogde;
4. Chairman, RCSC, Thimphu; and
5. Secretary to His Majesty the King, Tashichho Dzong.



His Majesty's Statements on Corruption Made During Public Consultations on the Draft Constitution

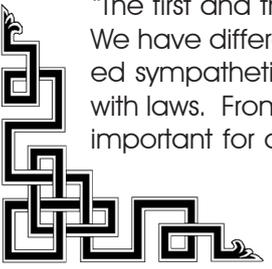
"One of the causes for the downfall of the Government and unrest of the people is the practice of corruption. Corruption is like a dreadful disease and if it takes root in the country it is very difficult to cure it. The problem of corruption is not only in our country but it is also faced by our neighbouring countries and the world. It is very important to prevent such practices from its inception. The responsibility to stop corruption lies not only with one individual but all the citizens of the country. If it creeps in once then it is difficult to erase it. In our country if we fail to stop corruption, then it is the one, which will cause all problems. Firstly, we must identify the corrupt person and then must be given corresponding punishment without mercy. Being a religious country we tend to show mercy and compassion. They are the ones who will cause problems to our country. If we can comply with the laws I am sure we can stop corruption. You must not leave this responsibility of eradicating corruption only to His Majesty or the Anti-Corruption Commission or the Royal Audit Authority and the civil servants, but it falls equally to all the individuals of a country. We must make corruption free country so that we do not repent in future." (Gasa, 13 May 2005)

"Corruption is my greatest concern. Till now, whenever I got a chance to meet with the people, I talked about the threat and problems of corruption. In many other countries, the main problem and the greatest threat is corruption. In fact, corruption has become a global issue. Corruption has become the root cause of suffering of the people and has even destroyed governments. Not only in one or two countries but also in many countries, be it big or small, the major form of corruption is through taking and giving bribe. Once the bad system of corruption gets into the country, it is very difficult to get rid of it. Like any dangerous disease, if we do not take precaution, it is very difficult to cure such disease." (Pema Gatshel, 31 December 2005)

"Giving and taking of bribe is common in most countries and this evil might become common in Bhutan also. I have heard that this kind of evil practice has crept into our system. I feel very sad and concerned to hear this, so it is important to ensure that such kind of evil do not take hold in Bhutan. The main cause for country's problem and people's unrest is the corrupt practices. People will rely less on the government if the government is not able to fulfill their aspirations. So, it is important to curb corruption as much as possible.

Bhutanese people being compassionate by nature, tend to forgive others very easily. So, we should never forgive those who are guilty of giving or taking of bribery. Those guilty of corruption must be punished according to the law, without fear or favour, and unhampered by misplaced pity." (Dagana, 5 February 2006)

"My greatest worry is that once Bhutan embraces parliamentary democracy, corrupt practices of bribery may creep in. Today, in the world, corruption is one of the biggest problems and such practices have led to downfall of many countries. We do not need to take examples from other countries. I have heard that bribery in small way is already prevalent in our country. To hear this it is of grave concern and sadness to all of us. Therefore, it is the duty of all Bhutanese that we look at the problems faced by other countries and make sure such problems do not creep into our system." "Bhutanese people being compassionate by nature, tend to forgive others very easily. So, we should never forgive those who are guilty of giving or taking of bribery. Those guilty of corruption must be punished according to the law, without fear or favour, and unhampered by misplaced pity." (Sarpang, 11 February 2006)



"The first and the foremost thing is to get hold of people, who indulge in such corrupt practices. We have different place for sympathy. If such people are caught, then they should not be treated sympathetically. In fact, it is very important to deal with such people strictly in accordance with laws. From the very beginning, we should neither accept bribe nor bribe others. So, it is very important for all of us to shoulder the responsibility to fully eradicate corrupt practices from our

country. Our kings have handed over our country in a very stable and in good form. And if we indulge in bribery and corrupt practices, then we will definitely regret later on.” (Samste, 27 March 2006)”

“These days in Bhutan, there have been rumors that a bad practice of giving and taking bribes has started. When such bad things are heard, I feel very sad. When we are going through a time where many important works and duties have to be executed and if such bad practices, which would have a great negative impact on our country is adopted then we shall not be able to serve our country to our best. It is not only in our country, it thrives in other countries of the world. The major root cause of problem is corruption. Be it in a small country or in a big country, the cause of downfall of government and untold sufferings to the people are because of corruption.” (Trongsa, 24 May 2006)

(Source: The Constitution of Bhutan: Principles and Philosophies by Lyonpo Sonam Tobgye, Chairman of the Drafting Committee)

Zhabdrung Ngawang Namgyal

“The beneficial, enchanted lake of the State laws has been stirred into turbidity by many evil deeds not consonant with the doctrines, such as plain trickery, including bribery, on the part of a few wealthy and important people, who include among them (village) counselors and messengers (who do this) while speaking sweet... Regarding law-suits honest statements which do not contradict each other and which clearly distinguish truth from falsity are to be submitted without being swayed by bribes and great haughtiness”

“Although Bhutan had 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”
