

Bhutan's experience: *enhancing effectiveness of the ACC*

1. Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention. In relation to article 6, para 1 and measures/steps that have been taken, State Parties and Signatories may wish to consider including the following:

- *Description of the main body or bodies that prevent corruption and, if applicable, oversee and coordinate the implementation of the policies referred to in article 5 of the Convention;*
- *Description of the measures taken that such body or bodies: effectively disseminate knowledge about the prevention of corruption and deal effectively with grievances and complaints from citizens concerning corruption;*
- *Description of measures taken to ensure that such body or bodies can assess their own effectiveness.*

The Anti-Corruption Commission (ACC) is the lead agency in Bhutan which is responsible to prevent as well as combat corruption in the country. The ACC is about 15 years old today. It was established in January 2006 as one of the Constitutional Bodies based on the Royal Decree issued by His Majesty the Fourth King on 31st December, 2005 and in accordance to Article 27 of the Constitution of Kingdom of Bhutan. The ACC strives to “*build a happy, harmonious and corruption free society*” by adopting three-pronged strategy of prevention, education and investigation. The functions and mandates of the ACC are guided by the Anti-Corruption Act of Bhutan (ACAB) 2011. As per the ACAB 2011, following are principal mandates and powers of the ACC, among others:

- Develop, maintain, revise and monitor the implementation of effective, coordinated anti-corruption policies and practices;
- Commence an inquiry or investigation on its own motion even without a complaint and without informing any person or authority;
- Cooperate and collaborate with foreign Governments, regional and international institutions, agencies and organizations in the fight against corruption;
- Take any necessary steps to prevent and combat corruption.

Besides undertaking preventive, educational and investigative functions, the ACC also prosecutes cases of corruption, under certain circumstances, empowered by the ACAB 2011. The ACC's mandate extends beyond the public sector as the ACC is responsible to prevent and investigate corruption in private sector including civil society and non-government agencies in Bhutan. In total there are 34 corruption offenses that are punishable under ACAB 2011. Broadly, the offenses are bribery, embezzlement, trading in influence, abuse of functions, possession of

unexplained wealth, false claims by public servants, failure to declare conflict of interest, false declarations with a view to conceal, abuse of privileged information, money laundering, concealment of corruption proceeds, offense relating to witnesses and participation in an offense.

The ACC has adopted “collective responsibility” as its principle policy to garner active participation of all the agencies to proactively fight corruption and not to sole depend on the ACC. In Bhutan, shared responsibility to fight corruption is mandated by the Constitution, wherein it is a fundamental duty (Article 8 (9)) for “*Every Person ... to uphold justice and to act against corruption*”. Further, as per Section 36 of ACAB 2011 “*Public agency heads shall have duty to develop, maintain and implement anti-corruption measures in their individual agency, whether or not as a result of investigation of corruption conduct in their agencies*” and “*The Commission shall monitor the implementation of such anti-corruption measures by public agencies and may require such public agencies to report to it on its implementation status*”.

Mainstreaming integrity and anti-corruption measures has been made mandatory for all the agencies in keeping with the Constitutional and ACAB 2011 provisions. Efforts to mainstream anti-corruption and integrity measures in the public agencies gained momentum in the 11th Five Year Plan where the then Government integrated implementation of anti-corruption measures into the national five year planning process and accordingly cascaded down to the annual plans of the public agencies. Anti-Corruption drive in Bhutan is aligned to five-year development plans, which is also timed along with elected government’s tenure. Today we are in the 12th FYP and in this plan period, the Government has further retained ‘*Corruption Reduced*’ as one of the National Key Result Areas with the objective to achieve greater momentum in controlling corruption in the country.

To ensure that this national objective is realized by the end of plan period, the Government has adopted a comprehensive National Integrity and Anti-Corruption Strategy (NIACS) 2019 – 2023. The strategy espouses three strategic objectives to promote systems of integrity at institutional as well as individual levels. This third strategy of its kind was developed by the ACC in consultation with all the national stakeholders. The first being National Anti-Corruption Strategic Framework for 2009-2013 and second National Integrity and Anti-Corruption Strategy for 2014-2018.

Taking cognizance of and in the spirit of ‘collective and shared responsibility’, the awareness and education programs are undertaken at various levels targeting different audiences. For instance, to reach out to the local levels the ACC conducted two rounds of advocacy and awareness program for all the 205 Gewogs (Block) between July 2013 and October 2019. The ACC also regularly interacts with representatives from the public and privates agencies at various national conferences, workshop and

meetings to enhance integrity consciousness by sensitizing on 'Ethics, integrity and professionalism'.

As corruption and its forms evolve in its complexity and scale and also with increase in the level of understanding among citizens and general public, the ACC is changing its education and awareness raising strategy. Now ACC focuses on vulnerable functions and areas to create greater impact. Starting 2018, the ACC has been conducting thematic sessions for specific group of audiences such as human resource officers, engineers, judicial personnel, finance & procurement officials and vulnerable sectors such as local government, hydropower & financial institutes.

Besides awareness and education programs, the ACC also support the agencies to build capacities to enhance its organizational and individual integrity of staff by administering various tools. The tools include corruption risk management, integrity diagnostic tool, conflict of interest management, gift rules, asset declaration, debarment, integrity pact, integrity vetting, etc.

In Bhutan, collaboration and cooperation among the national stakeholders to prevent corruption is significant, ranging from online training programs for the parliamentarians, judges and civil servants (including senior bureaucrats); conducting ethical leadership sessions for senior leaders; strengthening ethics and integrity in the judiciary by implementing Judicial Integrity Programme; implementation of 'Justice Sector Strategic Plan' to ensure more accessible, inclusive, accountable & responsive justice services; and regular meetings of the Law Enforcement Joint Coordination Committee to enhance communications & cooperation on common issues; among others.

The ACC has also been collaborating with education sector, specifically Ministry of Education and tertiary institutions, to promote integrity and behavioral change against corruption in the younger generations. 10 schools in 10 different Districts have instituted 'Integrity Clubs' and it will be extended further to 10 additional schools of remaining Districts in the year 2020. The ACC in collaboration with relevant agencies have developed curriculum/module on value education for Vocational Education and Training Institutions and students of classes PP to XII.

Further, the ACC has been actively engaging civil society organization and private sector to prevent corruption and raise integrity consciousness. The ACC regularly conducts education and awareness programs in collaboration with the religious organization called Institute of Science of Mind and a civil society organization called Bhutan Transparency Initiative (BTI). Such networks outside the government sector compliments the ACC's advocacy mandate to effectively reach out to larger section of the society. The BTI also actively promotes constructive citizen engagement and participation at various stages of development activities/programs by

supporting the implementation of social accountability tools. With regards to prevention in private sector, Business Integrity Initiative of Bhutan has been introduced to promote ethical business in the country. So far, about 15 State owned & listed companies and one private company have signed Corporate Integrity Pledge and administered Self-Evaluation Test to benchmark internal control measures in these companies. Though major immediate results are yet to be seen from the programme, there are already some small initiatives to denounce corruption by the companies.

Notwithstanding these interventions, promotion of integrity and anti-corruption measures are often viewed as additional responsibilities by the stakeholders, hence affecting effective institutionalization of integrity measures. Thus, the ACC is consciously making efforts to capacitate agencies so as to garner greater appreciation on institutionalization of integrity measures as integral part of governance system.

Similarly, on the international front, the ACC has constantly endeavored to remain connected to a network of international/regional/domestic institutions for mutual development and growth. Bhutan is a State Party to UNCAC and completed its first cycle of review in March 2018; became a member of the ADB/OECD anti-corruption initiatives for the Asia and the Pacific in September 2007; and has bilateral Memorandum of Understanding with MACC of Malaysia, NACC of Thailand, BIG of Switzerland, and ACC of Bangladesh. Collaboration with regional/international partners not only contribute to exchange of knowledge and experiences but also reassures and validates the ACC's strategies and interventions. The ACC also has good working relationship with other ACAs in the region such as CPIB of Singapore, CBI of India, CIABOC of Sri Lanka, etc.

Since 2006 till December 2019, the ACC received a total of about 5,802 complaints through various modes such as post, telephone, and in person (walk-in). On an average, the ACC received 35 complaints per month. Specifically, in the last five years, the trend of complaints received by the ACC has not seen significant variance as shown in the figure below:



However, the number of complaints received by the ACC is relative to the size of the population and the perceived level of corruption in the country.

With regards to quality of complaints in the last five years, on an average only over nine percent of complaints got qualified for investigation while more than 28 percent got dropped as those complaints did not relate to corruption offences but were either general, vague and unsubstantiated. Further, majority of the complaints that the ACC receives result into sharing with relevant agencies either for administrative inquiry or sensitization as those complaints are administrative in nature and not corruption per se. For instance in 2018, about 53.6% of the total complaints received by the ACC were shared with agencies.

With regard to investigation, between 2015 and end of December 2019, the caseload of the ACC has been 50 cases on an average. As of December 2019, total complaints that qualified for investigation pending for investigation/backlog is 75. This is substantial reduction in the number of back log complaints pending for investigation from 529 in December 2015. Besides investigating cases based on complaints received, the ACC also initiates investigation on its own proactively, based on intelligence gathering.

ACC also has good working relation with relevant national agencies for corruption investigation. One such key stakeholder is the Royal Audit Authority (RAA). In accordance with the Audit Act of Bhutan, the RAA refers all audit irregularities to the ACC when there are suspicions corruption offenses for further investigation. Hence, the review and decision making process on the RAA's referrals are similar to any other complaints. Similarly, the ACC also refers complaints to the RAA to be reviewed during its auditing. The ACC and RAA bi-annually follows-up and review the status of the respective referrals.

The Royal Government of Bhutan initiated review of national laws in 2015 with establishment of National Law Review Task Force (NLRTF). NLRTF reviewed about 126 laws and submitted their recommendations to the Government and the Parliament in 2018. Taking cognizance of recommendations of NLRTF, two houses of the Parliament has been implementing the recommendations. Amongst other, one of the recommendations of the NLRTF was to amend certain provision of the ACAB 2011. The Good Governance Committee of the National Assembly directed the ACC to submit proposals for the amendments of ACAB provisions. In accordance with section 24(1) of the ACAB, which mandates the ACC to recommends future legislative reforms as it considers necessary to minimize corruption, the Commission has submitted its proposal for amendment of certain ACAB provisions.

As highlighted by the first review cycle of UNCAC, Bhutan needs to ensure that Mutual Legal Assistance should be provided in relation to ranges of

offenses. Hence, Bhutan is currently drafting the Mutual Legal Assistance Act involving different regulatory and law enforcement agencies.

To effectively evaluate the effectiveness of administrative measures, the ACC conducts system studies proactively on vulnerable areas as well as reactive studies as a result of investigation of cases. In the last five years, the ACC conducted major proactive empirical systemic studies focusing on priority areas such as human resource management, mining, and public road construction. In addition, major reactive study to strengthen administrative measures related to trade and customs was also conducted in response to the weaknesses revealed by a major investigations. Every investigation provides systemic recommendations to facilitate plugging off the systemic loopholes. As a result of the studies, agencies concerned implements the recommendations and reports to the ACC. The status on the implementation of recommendations to strengthen administrative measures is then reflected in the ACC's annual report.

The performance of the ACC is guided by the broad national five year plan which is further cascaded and aligned to organizational and individual performance outputs and success indicators, in the form of Annual Performance Targets and Individual Work Plans. Being a Constitutional Body, the ACC reviews and evaluates targets and the indicators at various levels ensuring delivery of the expected results as well as promoting accountability cultures and further enhancing effectiveness and efficiency. It is important that such regular reviews and evaluations are conducted to sustain greater trust and confidence of the general public.

2. Please provide examples of the implementation of those measures, including related court or other cases and available statistics. In relation to article 6, para 1 and examples of implementation of those measures, States Parties and Signatories may wish to consider including the following:

- *Reports prepared by the body or bodies that prevent corruption, notably on their effectiveness;*
- *External reports on the effectiveness of the body or bodies that prevent corruption;*
- *Surveys of the extent of public knowledge about the prevention of corruption.*

On an annual basis, the ACC prepares report on the organizational performances and accordingly submits to His Majesty the King, Prime Minister and the Parliament, as per the Constitution and section 169 of the ACAB 2011. The Annual Report takes stock of ACC's interventions, lessons learned and challenges encountered. The leaders and policy makers evaluates the performance of the ACC and where required provides specific directives and recommendations.

Bhutan has come a long way in the fight against corruption, particularly, since the establishment of the ACC. The ACC believes that the public perception on prevalence of corruption is changing with increased awareness and there is gradual change in the behavior of the citizens to act against corruption. Unlike in the initial years, corruption is a topical subject for wide public discussions in social media and gatherings. As per the National Integrity Assessment (NIA) 2016, the national integrity score of Bhutan is 7.95, on a scale of 0 – 10, indicating a good level of integrity. However, the score has dropped by 0.42 from NIA score of 8.37 in 2012. This slight drop in the score reminds the need to reinforce the prevention of and fight against corruption in the country. The same assessment revealed that 24% of the respondents think that corruption has increased in the last five years, an increase by 10% from NIA 2012. This resonates the findings of National Corruption Barometer Survey (NCBS) 2016 conducted by BTI whereby about 32.5% of the population thinks that the level of corruption has “increased somewhat” over the last one year. However, as per NIA 2016, only 24.8% of the total respondents viewed the problem of corruption in the country as “Very serious”, while majority of the respondents (about 55.1%) viewed it to be “Quite serious” and 13.8% as “Not serious”.

With regards to perception of the general public on effectiveness of the ACC, the ACC enjoys modest trust and confidence of public and yet there is scope to gain greater momentum and confidence of citizens. The NIA 2016 revealed that 52% of the respondents agree that the ACC is “doing very well” as against 61% in NIA 2012. Similarly, the NCBS 2016 indicated that about 72.3% of the population rated the ACC to be doing “fairly well” against only 16.6% for doing “very well” in controlling corruption in the country. The NCBS 2016 also revealed that about 54.7% of the respondents had a fair amount of knowledge about the ACC, including its roles and responsibilities, while about 23.1% respondent to have heard about the ACC’s name but know nothing about its functions.¹

In 2015, Transparency International (TI) conducted “Anti-Corruption Agency Strengthening Initiative: Assessment of Bhutan ACC”. The report assessed and benchmarked the capacity and effectiveness of the ACC, also identifying gaps and areas of opportunities. As per the TI, the assessment of Bhutan’s ACC was “very good”. The ACC scored *High in 70%* of the indicators, *Moderate in 26%* and *Low in 4%* of the indicators. The dimensions with the strongest scores are independence, mandate and legal basis, as well as state support and interagency coordination. Least scoring indicators were “ACA’s responsiveness to corruption complaints” (*backlog of complaints qualified for investigation*), and “ACC’s staff stability” (*high attrition*)² as presented below:

¹The results of the latest NIA (2019) and NCBS (2020) is yet to be released.

² These Reports are available at www.acc.org.bt

Table 4. Assessment Summary: Indicators by Dimension

DIMENSION	INDICATORS									
LEGAL BASIS, INDEPENDENCE AND MANDATE (7)	ACA legal independence	ACA broad mandate	ACA legal powers	Appointment of ACA commissioners	Removal and term limits of ACA commissioners	ACA operational autonomy	Political use of ACA powers by government			
FINANCIAL AND HUMAN RESOURCES (9)	ACA budget (proportion of government budget)	ACA budget (sufficiency)	ACA budget (stability)	ACA staff salary and benefits	ACA staff selection criteria	ACA staff expertise (investigation)	ACA staff expertise (prevention, education)	ACA staff training		ACA staff stability (attrition)
DETECTION AND INVESTIGATION (9)	ACA's accessibility by whistleblowers and claimants	ACA's responsiveness to corruption complaints	ACA's willingness to take on corruption investigations	Average number of cases investigated by ACA	ACA's efficiency and professionalism in investigation	Average conviction rate of corruption cases	Willingness of ACA to investigate influential persons	ACA's role in restitution and asset recovery		Demographic information of complainants to ACA by gender
PREVENTION, EDUCATION AND OUTREACH (9)	Proportion of budget allocated to public outreach and prevention	ACA's corruption prevention initiatives	System/agency reviews conducted by ACA	Prevention recommendations in ACA investigation reports	Implementation of an ACA outreach and education plan	Engagement of stakeholders in outreach and education activities	Independent and proactive research on corruption risks by ACA	Dissemination and campaigns by ACA		Use of website and social media for prevention by ACA
STATE SUPPORT, INTERAGENCY COOPERATION (6)	Government support for prosecution of corruption cases	ACA cooperation with other control and integrity agencies	ACA cooperation with civil society and private sector	ACA participation in international networks	ACA cooperation with other countries' ACAs	Public confidence in state endowed ACA with powers and resources				
OVERSIGHT AND ACCOUNTABILITY (7)	Comprehensive and accessibility of annual ACA report	Oversight mechanisms for ACA	Internal complaints and review procedure within ACA	Staff disciplinary or dismissal with ACA	Public confidence in ACA treatment of persons under investigation	Public confidence in an impartial and fair ACA	Public confidence in an impartial, fair ACA among users			
PERCEPTIONS OF EFFECTIVENESS (3)	Public perception of ACA's effectiveness in corruption control	Public perception of ACA's effectiveness in corruption control among users	Public perception of ACA's effectiveness in corruption control among female users							

Scoring Key:

HIGH SCORE	Green
MODERATE SCORE	Yellow
LOW SCORE	Red
Scoring Not Possible	Grey

3. Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention. In relation to article 6, para 2 and measures/steps that have been taken, State Parties and Signatories may wish to consider including the following:

- *Description of laws, policies and procedures ensuring the independence of the body or bodies that prevent corruption, notably those aligned with the “Jakarta Statement on Principles for Anti-Corruption Agencies”, aimed at enabling them to carry out their functions effectively and protect them from any undue influence;*
- *Description of the material resources, specialized staff, and training facilities for staff.*

4. Please provide examples of the implementation of those measures, including related court or other cases and available statistics. In relation to article 6, para 2 and examples of implementation of those measures, States Parties and Signatories may wish to consider including the following:

- *Annual reports prepared by the body or bodies that prevent corruption, including budgets and expenditure reports;*
- *Analytical evaluations of the necessary independence and/or the human and material resources of body or bodies that prevent corruption, including number of employees working on prevention activities.*
- *Monitoring and evaluation reports on the effectiveness and performance of the body or bodies that prevent corruption, including, for example, parliamentary reports.*

The ACC of Bhutan is an independent and a Constitutional body, as guaranteed by the Constitution. This functional independence has been one of the critical factors that has contributed to successful interventions in the country. It enabled the ACC to be Strong, Fearless and Effective. Independence of ACC is guaranteed by Article 27(1) of the Constitution. It states that *“There shall be an Anti-Corruption Commission, headed by a Chairperson and comprising two members, which shall be an independent authority and shall take necessary steps to prevent and combat corruption in the Kingdom”*. Further, Section 6 (2) of ACAB 2011 states *“... the Commission shall not, in exercising its powers or functions, be subject to the direction or control of any person or authority”*. It is worth noting that till date, the ACC has neither been obstructed nor subjected itself to any political pressure. The ACC reports to His Majesty the King, Prime Minister and the Parliament, as per the Constitution and the Act, through its Annual Report.

To ensure independent functioning and safeguard the ACC from undue political interference, the Commission members of the ACC, consisting of a Chairperson and two Commissioners are appointed by His Majesty the King for a fixed 5 year term. And this is guaranteed by the Constitution. The appointment is done from the list of nominations submitted jointly by the Prime Minister, the Chief Justice of Bhutan, the Speaker, the Chairperson of the National Council (upper house) and Leader of the Opposition party.

The ACC officials are guided by Ethical Code of Conduct, which requires every staff to exhibit following, among others:

- Display professional excellence.
- Conduct duties without fear or favor, prejudice or ill will, avoiding all forms of discriminations
- Maintain the highest degree of confidentiality.
- Exercise courtesy and restraint in words and action.
- Take no undue advantage of one’s authority and position.

Other key attribute of independence is to have adequate financial and human resources. Being a Constitutional Body and as per the Chapter 2, Section 6 and 7 of the ACAB 2011, operational independence and financial stability is ensured. The ACC receives full support of the Ministry of Finance related to its budgets and Royal Civil Service Commission related to human resource. The ACC has Memorandum of Understanding with the Royal Civil Service Commission, which provides greater latitude to the ACC in HR matters (recruitment & selection, training and promotion) unlike other public agencies. However, the ACC does not have full autonomy over financial and human resources. The ACC’s experience over 14 years reveal that simply having functional independence, without HR and financial, is not adequate. The staff of the ACC are civil servant and are subject to the rules and regulations of general civil service. Having to depend for the resources to the Government (of the day) and RCSC exposes to the risk of

undue political influence and conflict of interest situations, which may impede the performance in the future. Fortunately, the ACC did not face any such issues till date. Therefore, it is imperative that the policy makers and the anti-corruption agency be prepared for such exposure and risks in the near future.

The ACC continuously endeavors to focus on building capacity of its staff to be effective in fighting and preventing corruption. For 2019 alone, 59 short-term capacity development programs were availed which included in-country as well as ex-country capacity development programs. The capacity development programs were supported by the Royal Government, the development partners such as UNDP & UNODC and also counterpart agencies in the region. However, the fight against corruption always remains challenging as new and complex forms of corruption emerge. This demands higher levels of competencies, intelligence, effective networking and greater preparedness that warrant relevant, dynamic and enterprising capacity development programs. With the withdrawal of support of development partners, the ACC is increasingly facing challenges to avail specialized capacity development programs.

As of December 2019, the total staff strength of the ACC was 119 as against the approved outlay of 140 for the year. Specifically in the Department of Prevention and Education, there were 19 staff (including a Director) against the projected strength of 23. In 2019, the ACC was understaffed by 15% because of comparatively low turn-out of professionals with appropriate skills aggravated by challenges to retain the existing ones. The turnover rate is considerably high, for instance in 2018 alone the ACC saw highest number of staff (17) separation. The ACC focusses on recruitment and by the end of July 2020, the ACC expects to achieve the projected staff strength of 152, to be able to optimally deliver the mandates of the ACC.

The annual budget of the ACC for the financial year 2019-2020 (period from 1 July 2019 till 30 June 2020) is Nu. 142.03 million (approximately USD 2.02 million). The budget is an increase of 6.15% as compared to the previous financial year. Until June 2017, majority of the ACC's capital programs were financed by the development partners. Now that majority of development partners have phased out from the country, most of the integrity and anti-corruption programs are sustained through the support of the Royal Government.