

## **Introduction**

Bhutan is a small and young country sandwiched between the two most populous countries in the world, India and China. The population is less than a million and closely knit. Its steeped in cultural and spiritually values, which may be at the risk of being lost due to the tsunami of consumerism and materialism. It has made unprecedented progress in a short period of time under the wise, caring and enlightened reign of its monarchs, which is being continued by the democratically elected governments. The enlightened policies protected the country's pristine and rich ecological wealth (social, cultural and environmental). However, this may be changing as the country modernizes and party politics tend to take precedence over good governance and larger public good despite Gross National Happiness being its development beacon. In 2008, Bhutan smoothly transited from an absolute monarchy to democratic constitutional monarchy. It is stated that about 69% of her people still live in rural in areas with agriculture, livestock and forestry as their primary source of livelihood. However, in reality it may be far less living in rural Bhutan. Renewal energy is the main source of its revenue.

In 2006, in preparation for the introduction of parliamentary democracy in 2008, two new oversight institutions were established under a Royal Decree. They were the anti-corruption commission (ACC) and the election commission (ECB). They are independent constitutional institutions as defined in the Constitution of Bhutan. Other two are the Royal Audit Authority and the Royal Civil Service Commission, which have in existence over two decades. The Constitution was ratified by the parliament of the new democracy in 2008. It guarantees independence and protection (e.g. removal only through impeachment by 2/3<sup>rd</sup> of the parliament) to the constitutional bodies.

The ACC has the mandate to prevent, educate and investigate corruption. It has grown very rapidly from a four member institution to over a credible and an effective institution of over 100 professionals now. People hesitated to discuss corruption in public and much less understood it. In the initial stages, even complaints of black magic, water resource mismanagement, etc. were lodged with the ACC. As much as people had to understand corruption, its causes and consequences, people in the ACC not only had to understand it but also be prepared to address it effectively as mandated. I had no clue about corruption. People asked me, "Are you a lawyer? Are you an anti-corruption expert?" My only strength was my concern, conviction, courage and commitment? Our Kings were the biggest anti-corruption champions.

What I have to share is exclusively within the Bhutanese context. Nonetheless, certainly some principles and issues may be applicable to all. Challenges that afflict the oversight institutions world over are generally similar, after all.

## **The 10 Commandments**

Prior to responding to specific questions of the retreat, I wish to share a few fundamental principles that anti-corruption agencies (ACA) should remember in my view. They are (i) people working in ACA must remember that they are Bhutanese first (fight against corruption

cannot undermine national interest), (ii) an ACA must build itself as a credible, trustworthy, incorruptible, fearless and effective team who knows what, how, where and when of its vision and mandate but not to perpetrate its existence or build its empire, it has to lead by example - anti-corruption journey has to begin with “SELF”; (iii) personality factor should give way to consciously building strong systems and institutionalization (depersonalize to ensure sustainability); succession planning is crucial – young professionals must be trained and given responsibility; (iv) that fighting corruption cannot be a lone battle but a collective effort; in asserting one’s independence, an ACA cannot afford to be an island; (v) an ACA cannot claim to be on the high moral ground as if it is the savior of the country from the corrupt rest; it can backfire; (vi) ACA can be powerful but also equally vulnerable – politicization, exploitation from within and outside; the issue has to be constantly discussed within and outside the agency; (vii) overuse of term “corruption” can be repulsive; be smart to choose positive terms such as “integrity”, “social accountability”, or “good governance”; (viii) should not allow ego to come in the way of effective collaboration; ACA has to always make the first move; and (ix) other stakeholders have to take ownership of the anti-corruption programs.

### **Context and Strategic Choice:**

What were the most pressing corruption problems to be addressed, what were the different perceptions and interests about corruption issues?

Firstly, even before addressing pressing corruption problems one had to understand it, people’s perception, its manifestations, degree of prevalence, causes, perpetrators and consequences. Secondly, there was denial of prevalence of corruption in Bhutan. Thirdly, there was the issue of distinguishing corruption from culture. Bhutanese society is small and closely knit. Gift giving and helping one’s kith and kin are considered normal. This has now changed (gift rules & conflict of interest guideline). Further, another reality of being small where almost everybody knows or is related to everybody instills a sense of deep fear to act against the perpetrators of corruption (especially if they are powerful and if no personal loss is felt) or report it to the ACC despite it being a constitutional duty of every citizen.

Media, as in many countries is about sensational stories and only interested in investigation. They have a powerful opportunity to make a difference in changing people’s mindset, providing space for public discourse and channeling people’s voice.

### **What was your ambition and what strategic approach did you chose in light of the context?**

A journalist from the European Union asked me (I was just 3 days old in the ACC), “*What is your vision for the ACC?*” “*To make every citizen an institution of ACC and become redundant,*” was my response.

There was no honeymoon period (*learning and working simultaneously*); had to run and I think we ran well. Action had to be multi-frontal simultaneously: recruiting people and building an edifice of incorruptibility, trustworthiness and effectiveness (*started with four people; clarity of goal, strategies & priorities – concern, courage, conviction & commitment; capacity development – leap frogging by learning from others; building strong internal governance systems, effective code of conduct -training & commitment, all interventions piloted in ACC – first to practise & then broadcasting, tone & example from top, protection for the staff; proactively allow for external review & subject to scrutiny – external and internal; clear SOPs*), mobilizing donor support, drafting legal framework and dissemination (*anti-corruption act, asset declaration, gift rules, strengthening existing laws, through a consultative process for consistency with other laws, ownership, etc.; aligning it with international laws e.g. UNCAC and best practices*) and engaging stakeholders for synergised views (*a letter sent to all explaining various forms of corruption prevalent in the country, causes and consequences if not addressed and the ACC's expectations and mission*), creating space for public discourse on corruption – coming out of the denial mode, misperceived and artificial comfort of I'm-not-affected and apathy, conducting (*e.g. stakeholders' workshop on developing national corruption strategy – shared destiny, collective effort for collective well-being; creating occasion such as national anti-corruption week, etc.*), corruption perception survey, cultivating willing strategic partners (*media, RAA & IAU, schools and colleges, etc.*), building synergy and creating success stories, building an awakened citizenry and empowering them (*people as sovereign power but victims of corruption, connecting through local government, advocacy, anonymous complaint, etc.*).

For all the above to happen, political will of the ACA, leaders, people and development partners is crucial manifesting in timely support from domestic institutions such as the judiciary, supreme audit bodies and police and development partners (*e.g. engaged Singapore's CPIB director, Crown Agent, TI, etc.*) are critical.

Another precondition is ACAs knowing their priorities and managing them steadfastly without buckling under public or political pressure. Especially ACAs tasked with the triple mandate there will be the temptation besides other pressures for investigation to take precedence over other needs. In my experience, prevention of corruption is more challenging than investigation (*although investigative challenges cannot be undermined*) and time consuming.

Global and regional comparatives and systems studies that reveal cost implications are powerful tools. Bhutan appeared on TI CPI in 2006. It has set a goal to attain 20 in 2020; it is in the 27<sup>th</sup> least corrupt country of 175 countries with a score of 65.

### **What was successful, what did not work and why?**

A very strong, credible and effective (perhaps too much of it) institution was built. Young anti-corruption professionals well trained.

People freely talked about corruption, it became a topical issue; they accepted that corruption is there and is a problem that has to be dealt (*a telling example of people empowerment is a student's father having photographed a school principal taking WFP food meant for students to his house and threatening to report the matter to the ACC if he did not stop the theft; people questioned the local engineer when roads were not built well*).

Effort to mainstream anti-corruption measures was not effective because ACC worked with the agencies; was impatient and stakeholders' ownership was minimal – fostered attitude of “they and us”. Hence, later worked with the national mechanisms on the national anti-corruption strategy fully capitalizing on the government's (political parties) anti-corruption slogans and at the policy level while engaging agencies at the implementation level. Media partnership did not work despite the signing of the MOU since media focused on investigation rather than taking the responsibility of generating public discourse on democracy, corruption and related issues and forging critical public opinions.

**Collaborative engagement: How did you collaborate with other actors within the political system and other actors seeking accountability (e.g. civil society, media, private sector, parliament, government, judiciary and other oversight institutions)? How did you try to reach out to the citizens, and connect to subnational initiatives? What was successful and why? What are main lessons?**

Citizens' charter (moved to PMO), national anti-corruption strategy and national integrity assessment were instruments of collaboration with the government and mainstreaming integrity and anti-corruption policies and programs (*e.g. service delivery through simplification of processes – system re-engineering, service standards, performance management, etc.*). A system of quarterly dialogue was established with the Cabinet and Committee of Secretaries including a regular briefing to the prime minister. Eleventh and twelfth five year plans have corruption reduction as national key result area.

The submission of ACC's annual report to the parliament afforded an effective platform to closely work with the parliamentary committees (good governance and ethics committees). Parliamentary committees monitored the implementation of the anti-corruption strategies by the parliament, the executive, etc. ACC also worked with the parliament on assessing its own corruption risks and mitigating the same (e.g. corruption risk management in the National Council). Many discussions and resolutions in the National Council emerged from the ACC's annual reports. Parliamentarians as people's representatives also acted anticorruption advocates in their constituencies.

To empower citizens in the fight against corruption engagement of CSOs (but must assess their credibility; CSOs must work beyond its formal structure) is critical but first their capacity has to be built. Signed MOU with over ten CSOs. A plan of action for introducing social accountability instruments was developed with support from experts from the region (e.g. MKSS of India) and in partnership with the government (jurisdictional responsibility), academia (capacity development responsibility) and ACC (facilitation). Over hundred youth social auditors were trained and social accountability tools were piloted in few local

governments. This is being continued by Bhutan Transparency Initiative (ACC is its founding partner).

Judiciary has been a great support to the ACC in building its legal capacity. It has been open working on strengthening its integrity system (a work in progress). Unlike the parliament and the executive, judiciary is not accountable to anyone. People's trust in the judicial system is low as also evidenced in 2016 national corruption barometer report.

ACC has always endeavored to work closely with the constitutional bodies, viz. the Royal Audit Authority, Royal Civil Service Commission and Election Commission (*surveillance 2008 election and investigation into electoral fraud was a great experience of collaboration*); has signed MOUs with the former two.

Work with the private sector has not been substantive besides the occasional dialogue, complaints on contracts and initial work on integrity pledges.

The ACC also consciously focused forging regional and bilateral partnership e.g. ADB-OECD Asia Pacific Anti-Corruption Initiative, NACC Thailand, CBI India, MACC Malaysia, IACA Australia, CPIB Singapore, IACC Hong Kong, etc. Botswana, Maldives, Timor Leste and Bangladesh visited ACC Bhutan. It chose not to be engaged in big anti-corruption conferences.

Almost all programs doing well. However, more work had to be done in strengthening monitoring and follow up action and also ownership by stakeholders. Partnership with agencies worked better following an investigation; subject takes the ownership.

It may not be out of place to mention that personal relations facilitate the process and more so if the motive is noble. However, such relations have to be consciously institutionalized for sustainability of collaboration and cooperation.

**Inclusion: What is your experience of promoting gender equality and social inclusion, what means to you choose to address discrimination and exclusion? What are your main lessons?**

ACC has been conscious in recruiting female staff and also their distribution in different functions, especially investigation and complaints. Besides, access to the Commission is not barred. Women seeking assistance also approached through their CSOs.

**What major challenges and risks did you face? For example how did the ACC manage to become an independent and credible institution? How did you cope with the risks and challenges? What is your experience with navigating the complexity of challenges, interests and actors?**

Wanting to be redundant as an ultimate goal lends freedom, clarity of purpose and perspective and not the least instills courage.

Biggest challenge was apathy, culture of impunity, weak accountability, gave the feeling that more unethical you are greater the opportunity to rise in the echelons of power; weak enforcement culture. High level of tolerance (but only when you are not affected), never realizing that one day it will hit all of us back. Small society creates cozy safety nets (e.g. difficult to get documents, cooperation, etc.), hence the fear to speak up, ACC's work (investigation) becomes highly personalized and one faces the brunt.

Getting good people to join ACC (His Majesty had to intervene in transferring people to the ACC) – parents generally discouraged their children to join the ACC (concern over repercussion – small society syndrome). However, not having enough staff did not hold ACC hostage, compelling it to recruit anyone that came its way. Despite the challenges, ACC now has over 100 people.

The Constitution guarantees full independence but it does not fully manifest in action. Independence cannot be conveniently misconstrued as being functional independence which essentially is conditioned to resources being fully at its disposal but ofcourse to be used responsibly. Hence, an independent external review on the ACC's independence was done by Basel Institute of Governance, which among others proposed creation of an endowment fund.

Another challenge was gap between prosecution & investigation.

### **How did you deal with political pressure or pressure of powerful groups, what role did political parties play?**

ACC's biggest asset was the harmony, trust and respect in the commission, which can otherwise be highly polarized and politicized. The institution as a whole was robust which would not buckle under any circumstance or risks of consequences and this everyone was aware. Commissioners had professional differences but remained a cohesive team at all times because of tenacity of purpose and unconditional subscription to values.

Therefore, appointing the right people in such oversight institutions is of paramount importance otherwise fighting corruption is relegated to travesty and rhetoric. Political parties made the right noises and be seen on the right side.

### **What were milestones and critical moments in ACCs institutional development?**

Bringing corruption in public discourse (everyone talks about it now), making it a topical issue, mainstreaming it in governance and development planning, making it integral to all political parties' agenda (though not necessarily in action); building integrity systems in the parliament and judiciary; touching the untouchables (elite and business hub), tested the Constitution (ACC prosecuted a high profile case that was refused by the prosecuting agency). Gave a platform to CSOs for engagement in strengthening democracy and lent greater impetus to value education in schools and colleges.

His Majesty bestowing the Druk Thuksey & scarf to ACC in 2008. ACC claimed as one of the most effective agencies in the region and beyond.

### **What have been your main lessons and adaptation over time?**

Know your stuff well, coordinate, consolidate and engage; be patient and understanding with partners' pace without compromising quality of work (*too many things, very ambitious and always in a hurry, achieved a lot but sometimes partners not able to catch up with you; monitoring becomes difficult & impact is lost*); have to work necessarily with the government of the day – cannot be antagonistic but skillful and wise; build research capacity, strengthen monitoring and follow up, focus on mainstreaming, etc. As corruption is repulsive, use positive interventions such as integrity, leadership, government, citizens' empowerment through accountability, etc. It was said that people looked at the ACC with fear and seen to be biased towards investigations. Its communication strategy perhaps was weak, especially with regards to social media (failed to take advantage of it).

ACA must have prosecutorial powers.

Change management was weak (restructuring did not work; has now reverted to the conventional three pronged structure).

### **What is your perception about the role of donors? What should be our role in supporting such commissions? What can we do better, what should we avoid?**

Donors should not be prejudicial; must learn to cooperate among themselves - sometimes too many of them in various and similar areas; can the oversight institutions with their donors work together, pooling their limited resources and breaking territorial barriers?; donor support in other developmental sectors may cooperate with the oversight institutions in strengthening the governance of the sector – mainstreaming governance consideration. Donors' support should be timely, should learn to trust the oversight institutions and correspondingly, responsibility also has to be borne by the institutions to gain that trust; donors should not take the primary role – institutions must know what their priorities (may be in certain situations, they may have to build the pressure); must understand the cultural context; should learn to think out of the box and help build solidarity among similar institutions in the region and beyond, which also helps in dealing with trans-border intervention.

Donors should have a withdrawal plan to make the institutions and their government more responsible and also assist in building institutional networks for in the region and beyond for sustainability.