

**From Pandemic to Recovery:**

**Independence of Anti Corruption Agency ( ACG )  
- A Bhutanese Perspective**

**Wangay DORJI**  
*Anti-Corruption Commission*  
*Kingdom of BHUTAN*



# What do we understand by the term “ Independence”

In general, Independence mean, “ Freedom from the control , influence, support, aid, or like from others” ....

.....When the agency is independent of government and empowered to investigate allegations  
( International Transparent Initiative)

..... Have appropriate training and resources to carry out their tasks (UNCAC Article 36)

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..... Have an appropriate budget at their disposal as well as suitable financial resources to remunerate staff (UNODC Technical Guide)

# What Makes an Agency Independent ?

Classic case of President Roosevelt versus Former Federal Trade Commissioner, William E. Humphrey ( 1933)

## **Structural independent**

“ Agency design both in terms of restrictions placed on the political principals to appoint key agency decision makers as well as restriction on political review of the agency policy”

## **Free from Political influence**

“ Agency should have the ability to choose how to implement policy and should not be responsive to elected officials”

# The Jakarta Statement on Principles for Anti-Corruption Agencies

## Institution

- Mandate ( Principle 1)
- Collaboration ( Principle 2)
- Permanence ( Principle 3)

## Human Resources

- Ethical Conduct ( Principle 7)
- Internal Accountability ( Principle 13)
- Immunity ( Principle 8)
- Authority over Human Resources ( Principle 10)

## Leadership

- Appointment ( Principle 4)
- Continuity ( Principle 5)
- Removal ( Principle 6)

## Financial Resources

- Remuneration ( Principle 9)
- Adequate & Reliable Resources ( Principle 11)
- Financial Autonomy ( Principle 12)

## Oversight

- External Accountability ( Principle 14)
- Public Reporting ( Principle 15)
- Public Communication and Engagement ( Principle 16)



# Assessment of Independence of Anti-Corruption Commission(ACC) of Bhutan based on Jakata Statement

## 1. Institution

- ❑ Constitutionally guaranteed independence (Article 27(1) – Constitution of Kingdom of Bhutan)
- ❑ Anti Corruption Act of Bhutan (Section 5 (1) – ACAB 2011)
- ❑ Operational independence (Section 6 – ACAB 2011)
- ❑ Cooperation with other bodies (Section 9 – ACAB 2011)
- ❑ Chairperson to be removed through impeachment (Section 19 – ACAB 2011)

## 2. Human Resources

- ❑ Independence of adequate human resource (Section 8 – ACAB 2011)
  - *Partial independence as it needs to consult with Royal Civil Service Commission or follow Civil Service Act for appointment, management or dismissal of its staff*

# Assessment of Independence of Anti-Corruption Commission(ACC) of Bhutan based on Jakata Statement.....

## 3. Leadership

☐ Chairperson and Members of the Commission to be appointed by the Head of the State ( King) – Article 27(2) of the Constitution of Kingdom of Bhutan)

- *From a list of names recommended jointly by the Prime Minister, the Chief Justice of Bhutan, the Speaker, the Chairperson of the National Council and the Leader of the Opposition Party*

## 4. Financial Resources

- ☐ Financial stability is ensured through Section 7 of ACA B 2011
- *The State shall make adequate financial provisions for the independent administration of the Commission as a part of annual national budget*
  - *Ensure availability of funding for ad hoc cases and for complex investigation in accordance with the budgetary process if there is a deficit in the approved budget*

## 4. Oversight

- ☐ Submit an Annual Report on its policies and performances to the King, the Prime Minister and Parliament. - Article 7 (4) of the Constitution of Kingdom of Bhutan)

# SUMMARY

Even though, ACC enjoys structural independence and free from political influence, it is still dependent on the other institutes of Royal Government for financial support and Human Resources

Financial and Human Resource independence is still a big question mark !!!

# Thank you!

