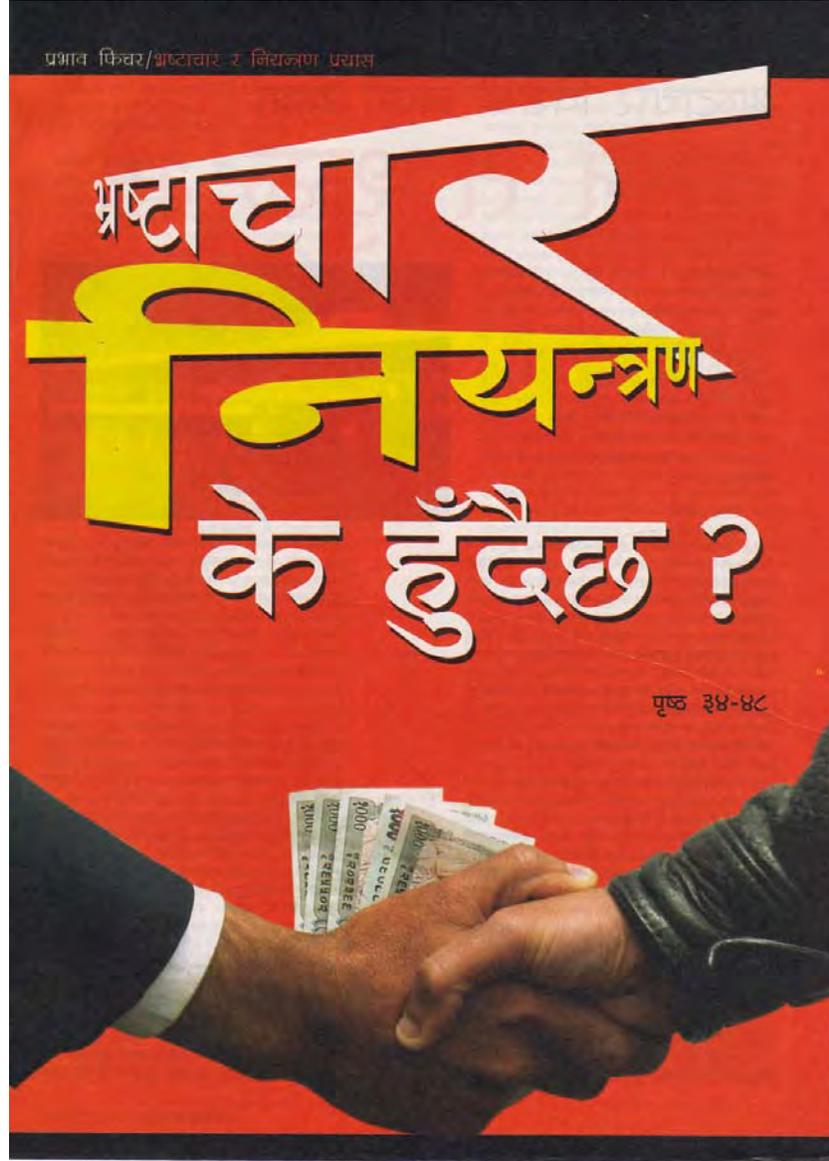


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Title of the Cover Page : CONTROL OF CORRUPTION: WHAT IS BEING DONE?

1. The long journey against corruption has just started (Cover Story by Sharad K.C.):

(a) Although the anti-corruption agencies are centralized, the goal of controlling corruption remains a distant hope because irregularities and corruption have reached every nook and corner of the society. The anti-corruption activities of agencies controlling corruption, including the CIAA, however, sends the message that the tempo in relation to control of corruption will be maintained in the days to come. The absence of Parliament and the resulting political vacuum during the last three years has raised the issue of whether these agencies could remain authoritative, efficient and independent?

(b)The government officials themselves concede that key corrupt figures may sometimes go unnoticed because the workload of CIAA in investigating the cases registered in the Special Court does not give it time to concentrate on such matters.

(c) Renowned Faces, Renowned Cases

There are cases sub-judice in the Special Court against five influential former ministers, Khum Bahadur Khadka, Jayaprakash Prasad Gupta, Govinda Raj Joshi Rabindra Nath Sharma, Chiranjibi Wagle. With the exception of Chiranjibi Wagle, the other four face a penalty of five years of imprisonment, In the charge-sheets CIAA is asking to confiscate and secure the equivalent value of property for which no source could be ascertained. CIAA is asking for the equivalent value of Rs. 23.6 million for Mr. Khadka, 39.3 million for Joshi, 20.8 million for Mr. Gupta and 49.5 million for Mr. Sharma respectively. The former minister Mr. Sharma has been charged and a penalty demanded of 8-10 years of maximum imprisonment for yet another corruption case. In that case it is alleged that he misappropriated a sum of Rs. 10.9 million through a fake spy. The cases against three Inspector Generals of Police - Motilal Bohara, Achyut Krishna Kharel and Pradip SJB Rana - are also sub-judice. In these cases no source of property could be ascertained for Rs. 23.8 million for Mr. Bohara, Rs. 16.3 million for Mr. Kharel and 37.7 million for JBR respectively. In these cases confiscation and equal compensation of the embezzled amount is sought and two years of imprisonment demanded.

The case registered by CIAA on June 21, 2005 (7th of Ashad 2062 B.S.) against the employees of Rani Branch of Rastriya Banijya Bank in Biratnagar is the highest amount in a corruption case as of this date. In this case the employees colluded in sanctioning a loan of Rs. 1.37 billion. The six employees, including the Branch Manager, Radha Prasad Shah, and the party to the loan, Mangtu Ram Agarwal, have been accused in the case. The Special Court has convicted 96 persons in four separate cases for sanctioning a debased loan worth amount Rs. 5.2 million. The case was registered against 142 persons, including the Deputy General Manager, Sher Bahadur Thapa of the Kathmandu Banking Office of Nepal Bank Limited.

Since 2002 CIAA has claimed Rs. 6 billion in corruption cases. Despite this fact, its charge-sheets show that individuals who are charged in corruption cases have embezzled

on average 40-50 million. Are there no individuals who embezzle less or accept smaller bribes in Nepal?

(d) Nobody is behind the bars, though

(e) Under the Special Court Act, there is a provision that corruption-related cases shall be decided within 6 months, and appeal thereto shall be expedited within 3 months.

(f) The annual report of the CIAA, which realizes that it could not establish its effective presence beyond the valley, states that, "the Chief District Officers too could not perform as efficiently as anticipated despite the delegation of power."

(g) How could the investigation carried out by the government employees be thorough when they have to investigate their counterpart civil servants who are recently being exposed in corruption cases?

(h) Because civic alertness against corruption is gaining momentum, the people accused of corruption do not generally dare to appear in the frontline especially in public gatherings. The family members of such persons also have to face difficulty in the society these days.

(j) Parliamentary Vacuum

It has been three years since dissolution of the all powerful body, the Parliament, wherein the matters with regard to corruption are discussed. The Parliament entails the ultimate right to encourage and persuade Prime Minister, Ministers, or Office-Bearers of Constitutional Bodies in their good deeds; whereas, on the other hand, it vests the right to punish them if they indulge in wrong practices. It is believed that this makes them responsible for their actions. Recalling the fact that CIAA is given its power by the Parliament; NC Spokesperson, Krishna Sitaula asserts, "There is an end to responsibility and transparency in the absence of Parliament. Corruption flourishes when there is no transparency. However, people are aloof to it."

(k) Civic Vigilance

The anti-corruption agencies like National Vigilance Centre, the Special Court and the CIAA are being technically supported by national and international institutions, including 'Strengthened Rule of Law and Respect for Human Rights in Nepal', as well as the government agencies. The civil society organizations are conducting various programs under the international support. The information disseminated by the media has helped to foster civic alertness. Hari B, Thapa, a journalist, asserts, "Media is providing the space for corruption related news, and the coverage of events by the media on anti-corruption programs has informed and helped the public to ascertain right or wrong practices." However, he further opines that the practice of the media in investigative reporting and research-based exposure of corruption has yet to materialize.

2. Interviews:

(a) Jhalanath Khanal, Leader, NCP (UML):

Every Institution shall have to be transparent: The political leadership is not being sincere enough against corruption. The general public is skeptical, believing, "nobody will do." The upcoming leadership, therefore, has to come forward with a new conjecture, resolution and commitment by completely changing its mindset. Political parties, the government agencies and the palace – all shall abide by the rules and regulations; the income and expenditure of all shall have to be transparent.

(b) Prakash Osti, Advocate

Corrupt are startled: Even though the anti-corruption agencies have become active now as compared to the past, society has been experiencing that whatever is being done is not up to the mark. The political culture to combat the corruption shall have to be established in the country first, which can not be expected overnight. In the absence of collective support, the workings of a single agency like CIAA or any other agencies shall not be sufficient enough for combatting corruption, which is now a daunting challenge in Nepal. However, the CIAA being active these days, there is now the situation that the corrupt are definitely reluctant to accept the bribe and make a wrong decision.

(c) Krishna Sitaula, Spokesperson, Nepali Congress

Corruption breeds in darkness: In the past when there was Parliament, there used to be deliberations and discussions on how the State and its machineries were functioning. The public used to ask the State about this through their representatives. The politicians, while strengthening the authority of CIAA, were committed to abide by the laws if there were any weaknesses on their part. However, the state coffer has been plundered ubiquitously amidst the darkness and obscurity at present.

(d) Krishna Kumar Shrestha, Acting Chief Officer, National Vigilance Centre

We are keeping vigil: The two-year timeline, since its inception, has elapsed in formulating the rules, procedural guidelines and operating system. The main task accomplished during this period is the 'technical auditing'. Similarly the collection of property disclosure by the public officials and the management thereof is also our responsibility. From this year onward, we are planning to keep modest comprehensive statistics as to the property disclosure by civil servants.

(e) Surya Nath Upadhyaya, Chief Commissioner, CIAA

There is a moderate reduction in Corruption says Chief Commissioner

Q. How is the situation of corruption now? Since your appointment has it increased or decreased?

More people are now informed on corruption than five years before. The number of people advocating against corruption has risen. People are now scared to indulge openly in corrupt practices. People are aware and convinced that those who indulge in practices of corruption may any time be arrested and be punished. In totality, the

environment against corruption has evolved. There is a moderate reduction in corruption also.

Q. The Report of the Transparency International has portrayed increase in corruption after February 1. Is this due to the effect of February 1 or formation of Royal Commission?

This is absolutely not the situation. It is worth considering how the Report of TI should be interpreted. The first thing is that the figures, which TI publishes in its Report every year, should not be compared to the previous year's figure. This is incomparable. Secondly, the Report does not reflect the perception of the Nepalese people. Neither has it surveyed Nepali opinion. It is the opinion of foreigners. Thirdly, these statistics depicted under the survey are entirely based on the hypothesis of integrated governance, rather than the lone conception of corruption. Corruption and governance are different subject matters. Yes, there could be the innate interrelation between the two. They influence each other, but the survey carried out by the foreigners, assuming both the two as one, does not represent Nepali people. That is not the reality. As far as February 1 is concerned, within a short span of time it would be prejudicial to conclude that it influenced the entire previous year's functioning in a retrospective manner.

Despite these facts, the survey and statistics of TI is important. The relevance and importance of TI's Report can not be denied in the present day world as it may influence direct foreign investment in Nepal, the risk-factor perceived by others, and several other impacts for that matter – if all are taken into account of. The statistical analysis of our activities shows that it is a proven fact that we are now as active as then, if we make a comparison of 4-5 previous years. Rather we have become more active now, so far as the question of CIAA is concerned.

3. Articles -

(a) “Corruption: Impact and Prevention” by Sneha Sayami

Generally, corruption is the misuse of public office or authority for private gain. However, corruption entails all other acts which have a bearing on public procurement, tender or any other decisions which the personnel, who holds the public office, influences for monetary value.

- *Why does a person indulge in corruption and what are its consequences?*
- *Corruption increases poverty*
- *Corruption discourages foreign investment*
- *Corruption increases Gender Inequality*
- *Corruption dismantles the Political System*
- *Corruption leads to conflict*
- *Who is involved in corruption?*
- *Role of Civil Society*

A person engaged in corruption and the so-called 'good' transformation of his lifestyle incites others to practice corruption.

Since corruption causes the national resources to be centered within limited and influential powerhouses, the life of a large number of people becomes difficult, famine is everywhere and the gap between haves and have-nots widens.

(b) “Instigator of Corruption Still in Shadow” by Kiran Nepal

At a time when transparency is largely lacking in business deals, the government policies have not been able to encourage these businesses to be transparent. Due to the ambiguous government rules and regulations, corruption in important business sector is being encouraged.

Instigators are equally responsible for any form of corruption. There is no state machinery available to deal with the instigators of corruption in business sectors although there are various anti-corruption agencies active in controlling the corrupt practices of the public sector. The competitiveness of business sectors is being eroded due to the lack of a controlling mechanism to deal with the corrupt businesses. This might be the reason perhaps why Nepal Chamber of Commerce has become instrumental in controlling business sector corruption through its 'Corporate Ethics Forum' and 'Anti-corruption Project'.

To misinform the public about the quality and quantity of any particular commodity, to evade tax, and to intentionally not repay a bank loan are also forms of corruption.

The Income Tax Act of Nepal, which carries the myth that businesses once profitable never go into a loss, has provisions that mean that a company which accumulates profit in one fiscal year and pays the huge tax shall have to pay even more tax in the next fiscal year.

(c) “United Nations Convention Against Corruption” by Narayan Manandhar

Once the Convention is ratified, there would be no safe place left for the corrupt autocrat to hide the plundered property. In a message delivered by the Secretary General in the Merida of Mexico during the course of appending the signature in the Treaty, it is clearly stated that, "Member States are bound to recover the plundered property."

4. Remarks of General Public being victim of Corruption

- (a) Harka Tamang, Taxi Driver, Nuwakot
- (b) Chandra Kala Rai, Tempo (Three-wheeler) Driver, Khotang
- (c) Bijaya Adhikari, Student, Kathmandu (Corruption in TIA)
- (d) Yogesh Shrestha, Transport Operator, Lalitpur

- (e) Hem Kumar Mainali, Kathmandu (Subscriber of NTC Telephone)
- (f) Ramesh Thapa, Student, Kathmandu (Corruption in Custom Check Point)
- (g) Ramesh Karkee, Student, Kathmandu (Corruption by Traffic Police)
- (h) Krishna Neupane, Transport Operator, Kathmandu (Corruption in Transport Department)

5. Strengthened Rule of Law and Respect for Human Rights in Nepal: An Introduction of the Project -

(a) 'Strengthened Rule of Law and Respect for Human Rights in Nepal Project' is being run in order to support Nepali initiatives in relation to strengthening the rule of law, equal access to justice, and controlling corruption through ensuring transparency in public sector, as per the agreement entered into between USAID/Nepal and HMG/N on July 3, 2003. The project duration is for three years. ARD Inc. has been entrusted to administer the allocated grant for three years by the USAID for institutional development of relevant government and non-government agencies as well as to support other programs. ARD Inc. has been implementing this Project since June 2004 (2061, Jeth)

The Project has been providing technical and other support in areas like physical infrastructure and human resource development and collaborating with the Supreme Court, other Courts, Judicial Council, National Judicial Academy, Special Court, the CIAA, Office of the Attorney General and National Vigilance Centre under different programs, including support with regard to institutional reform in the judicial sector and the capacity-development of anti-corruption agencies. The major outcomes of this Project in supporting and collaborating with the anti-corruption agencies are as follows:

(b) Organizing anti-corruption regional conferences for local participation/activeness:

Having realized the fact that the fight against the corruption is not possible without cooperation and participation from all relevant stakeholders, CIAA, in association with this Project, has organized regional conferences in four different regions during the last year to increase awareness at local levels. These conferences were conducted with active participation from CIAA in Birgunj and Biratnagar, and NVC in Pokhara and Nepalgunj respectively. In these conferences, there was active and considerable participation from the civil society and private sector, including the participation of the chiefs of the local and regional-level government offices. Each conference concluded with resolutions and declarations.

(c) Resolutions and Commitments of the Regional Conferences:

It is desirable to have mutual cooperation among all to fight corruption through punitive, preventive and educational measures. Realizing this fact, members of the government sector, business sector and civil society sector who participated in these

conferences adopted some resolutions on corruption control and to build integrity into the system. The summary of these resolutions are as follows:

- Every public officials must submit the property statement form to concerned office in due time and update it annually.
- Support and encourage anti-corruption activities at local levels.
- Every Office Chief must have a commitment to control corruption and must develop a practice to evaluate corrupt situations in the meeting held every month at the District Administration Office.
- Concerned local authority must initiate inquiry on corruption reported in the national or local newspapers and investigate as per the law.
- The Code of Conduct of Businessmen duly passed and promulgated by the Federation of Nepalese Chambers of Commerce and Industry (FNCCI) should be faithfully enforced and respected.
- If any lawful action is taken against any individual or organization in case of revenue leakage, no obstacles or hindrance shall be made for prevention of such or minimization of revenue leakage.
- Measures and effort shall be initiated to make the tax-paying and tax-collecting system more clear to prevent revenue leakage by under-billing.
- Develop networking of anti-corruption organizations and encourage them to work together.
- Award public officials who honestly serve citizens for doing a good job.
- Develop transparent culture in non-governmental organizations.

(d) Enforcement and Monitoring of Conference's Resolutions:

The resolutions passed in the Conferences at Birgunj, Biratnagar, Pokhara and Nepalgunj are basically preventive measures for controlling corruption, and the implementation of them leads to a corruption-free society. Hence, a District Coordination Committee, backed by CIAA and NVC, comprising 21 members from government, private sector and civil society has been formed in those places for implementing the resolutions and to devise and conduct other preventive and awareness-related programs. This Project has been providing technical and other support for local committees and central monitoring team as well.

(e) The specialized training for investigation and prosecution of corruption cases:

The Project has been providing support in writing and publishing an "Investigation and Prosecution Handbook", training and a study trip at national and international levels for Investigating Officers of CIAA. These activities provided needed specialized knowledge and skill for investigating and prosecuting corruption cases.

(f) Support with regard to Physical Infrastructure and Equipment

The Project has been supplying furniture, computers and other equipments for the CIAA, Special Court and the National Vigilance Centre.

(g) Support for the Civil Society Organization

In order to make civil society initiatives more formidable and result-oriented in combating corruption, this Project has been directly supporting and providing financial grants and other necessary support to civil society organizations. The Project has been supporting special training programs on investigative journalism to enhance writing skills in corruption reporting.