

# Corruption and Corruption control in Nepal

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# What is Corruption ?

- Do we need a definition ?
- Corruption:
  - Abuse of Authority-Use of Public Position for Private Gain--- Improper Action
- Basically two elements :
  - Abuse + Gain

# How Corruption Impacts ?

- Undermines the Rule of Law
- Affects the economic development of developing countries.
- Widens the gap between the rich and the poor
- Leads to terrorism, drug trafficking, deals in illegal arms supply etc.

# Nature of Corruption-----1

- Grand– Petty—State Capture – Systemic— Spot
- Happens at all levels
  - **Policy—Implementation—Evaluation – Revenue Collection– Resource Allocation— Procurement of Goods and services**

# Nature of Corruption....2

- The Demand Side :
  - The State functionaries,
  - The Organized Private Sector- service provider
- The Supply Side:
  - The Private Sector
  - The Individual service seeker

# Corruption Facts

- Every year:
  - \$1 trillion is lost due to bribes- [World Bank](#)
  - \$4 trillion, or 12% of Global GDP, is lost due to corruption related productivity losses- [Passau University, Germany](#)
  - \$400 billion is lost due to corruption in government procurement – [TI](#)
  - **Nepal's loss** is about **\$1.5 billion** due to productivity losses and **0.19 billion** in lost capital inflow- [Passau University, Germany](#)

# Estimated Amounts Stolen from the State by Ex-Presidents

- Mohammed Suharto-**President of Indonesia** 1967-98, US \$5-10 billion
- Ferdinand Marcos-**President of the Philippines** 1965-97, US \$5 billion
- Joseph Estrada- **President of the Philippines** 1998-2001, US \$ 78-80 m
- Slobodan Milosevic- **President of Serbia/Yugoslavia** 19 89-200, US \$1 billion

# Estimated Amounts Stolen from the State by Ex-Presidents (Contd.)

- Jean Claude Duvalier-**President of Haiti** 1971-86, US \$300-800 m
- Alberto Fujimori-**President of Peru** 1990-2000, US \$600 m
- Pavlo Lazarenko-**Prime minister of Ukraine**, US \$ 114-200 billion
- Arnaldo Aleman- **President of Nicaragua** 1997-2002, US \$100 m
- Sani Abacha-**President of Nigeria** 1993-98, US \$ 2-5 billion

(Source: Global Corruption Report 2004, Transparency International)



# Some recent high profile corruptions

- South African President Jacob Zuma -783 cases of corruption, accomplice Gupta family
- Presidents of South Korea- Lee Mayung Bak being the latest - 24 years of jail.
- Nawaz Sharif –Panama Papers leak -10 years of jail
- Bangladesh –cancellation of the loan of \$ 1.2 billion by the world bank on charges of corruption
- Nepal- Revenue director-Security personnel

# Corruption in South Asia

Transparency International Perception Index,  
2017: Countries surveyed 180  
(0 most corrupt 100 most less corrupt)

	Score/Rank
<b>Nepal</b>	<b>31/122</b>
India	40/81
Pakistan	32/117
Sri Lanka	38/91
Bangladesh	28/143
Bhutan	67/26

# Ways to Fight Corruption

- The Political will
- Effective Anti-corruption Agency
- Development of ethical culture
- Transparency
- Cooperation among executing agencies.

# Anti- corruption Agencies

- The Type of Anti-Corruption Institution :
  - General /Special or internal
  - Ombudsman/ investigation + prosecution
- .Type of Judiciary:
  - Internal /general

# Ways to Fight Corruption

- Preventive Actions

Plea Bargaining - **Integrity Pact** - Report Card - **Score Card** - Public hearing - **Citizen Charter** - Asset Declaration - **Code of Ethics** - Media Campaign - **Awareness Raising** - Moral Education - **Transparency** - Lessening of arbitrary decisions - **Development of clear procedures** – Effective monitoring - Life Style check - **Wiping away of impunity** - etc.

\* **Curative Action** – Prosecution and imposing of penalty

# Challenges of Corruption Control-1

- Watching the Watch-dog
- Use of Anti-corruption agency for political ends.
- The Role of Judiciary
- The debate on  
Multi –institutional anti-corruption  
vs.  
Single institution

# Challenges of Corruption Control....2

- The security sensitivity and corruption control
- The interface between the anti-corruption movement vs. the resistance, coalition building and evolution of nexus against the movement
- Maintaining the balance between investigation, media campaign vs. the infringement on personal dignity and hampering of developmental activities

# Corruption control in Defense....1

- Investigation
- A committee consisting:
  - Deputy Attorney as designated....Chairperson
  - Chief of Legal Section of the Ministry of Defense
  - Representative of Judge Advocate (Major or above)



# Corruption Control in Defense....2

- Court of original Jurisdiction:
  - Special Court Martial consisting:
  - Judge of the Appellate Court as designated ..  
Chair
  - Secretary Ministry of Defense....member
  - Chief of Prad Bibak .....Member

Appeal lies in the Supreme Court.

# Corruption Control in Defense...3

- Deficiencies :
- Weak institutional mechanism for investigation and prosecution lacking independence, autonomy and mechanism
- No independent Judiciary

# Corruption in Judiciary and constitutional bodies

- Judicial Council having authority to prosecute in the case of Corruption against judges.
- It is almost non-functioning because of lack of independence and conflict of interest
- Court administrators are under the purview of CIAA but difficult to investigate and prosecute.
- Constitutional authorities are to be investigated by impeachment or after the retirement.

# Corruption Control in Defense...4

- Mapping corruption in Important Sectors :
- Corruption Perception Barometer, 2013
  - Political Parties 90%
  - Parliament 79%
  - Military 43%
  - Judiciary 77%
  - Police 80%
  - Public servant 85%

# Some strides.....1

1. Ratification of UN Convention on corruption
  - Contents of the Convention:
    - Preventive Anti corruption Bodies
    - Code of Conduct for public officials
    - Public Procurement and Management of Finance
    - Public Reporting
    - Judiciary and prosecution services
    - Private Sector

# Some Strides.....2

- Participation of Society
- Measures to Prevent Money Laundering
- Criminalizing all sorts of Bribery
- Diversion of property
- Trading in influence
- Abuse of Authority
- Freezing, Seizure and Confiscation
- Witness Protection, compensation for damage

# Some Strides.....3

- International Cooperation
  - Extradition
  - Mutual Legal Assistance
  - Transfer of Criminal Proceedings
  - Recovery of Property through International cooperation
2. National strategy for the implementation of UN Convention.

# Some Strides.....4

- 3 Identification of various Steps to be taken for implementation e.g. amendment of 28 laws and enactment of 7 new laws
4. There are existing laws like Right to information, Good governance, National integrity policy etc.

What has been Lacking is honest implementation of what we have and what we want to do?



# Corruption in the New Constitution

- CIAA has been made weaker than the 1992 constitution
  - Jurisdiction on Improper Action has been curtailed
  - Parallel institutions may be created

No effective machinery against corruption in judiciary

No effective machinery for corruption in Army

No machinery for control of corruption in Political Party

# Corruption in future Nepal

- It is likely to increase for the following reasons:
    - Conflict of interest and building of nexus, horse-trading among the politicians.
    - Conflicting claims on the meager resources
    - No threshold for qualification of politicians
    - Anti-corruption and enforcement agencies are weak
    - Policy level corruption-weak monitoring of Parties
- Yet the choice is to muddling through.

**THANK YOU !**