

NEPAL

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SUMMARY

Executive

- His Majesty the King and the Council of Ministers constitute the executive of Nepal.
- The elected member of the parliament is eligible for being Prime Minister.
- No question can be raised in courts of law on His Majesty the King and actions performed by Him.
- The Premier, ministers and other members of the government or officials serving His Majesty can be sued by citizens.
- Government ministers and officials are required to declare assets by law; they do so at their pleasure; no monitoring is undertaken.
- The issue of conflict of interest is mostly governed by the code of conduct; but this is not enforced, balanced management of varying interests is not considered seriously; self interest mostly prevails.
- Gifts and hospitality are openly received. Members of the executive are expected to give reasons for their decisions, but they usually escape the obligation.
- Contract Act is specific about the competent authority to take decisions on awarding contract. However, the same is overtaken by ministers and decisions on contract fully controlled.
- There are also rules related to Council of Ministers to have administrative checks and balances on decisions of individual members of the executive.
- The government is formed by political party or parties represented in the House of Representatives on the basis of their strength in the 205 member House.
- Provisions for majority rule, coalition rule or minority rule have been made in the constitution for decisive, hung or indecisive parliamentary position. Fresh poll should be held if all three options cannot produce a viable government.
- The Prime Minister and other Ministers are collectively responsible to the House of Representatives. The Ministers are responsible individually to the Prime Minister and the parliament for the work of their respective ministries.
- The issue of collective responsibility is often debated seriously. But no unanimous consensus has emerged yet.
- The power of the Deputy Prime Minister also draws public discussion at times with no specific outcome.
- The power of the Prime Minister to go to the people on his will for a fresh mandate has been attenuated by the Supreme Court.
- The past decade could not produce effectively working executive. Too frequent parliamentary elections accompanied by instability in government could not create effective working atmosphere.

- Various governments' pledge of transparency and accountability of governmental performance in all spheres remained unfulfilled rendering the public helpless in redressing the human rights violations and checking abuse of governmental power.
- Politicizing bureaucracy and other government appointments became the rule.
- The government's recent January 22 move to get two Royal Ordinances – The Armed Police Ordinance 2057 B.S. and amendment to Local Administration Act 2028 B. S. – announced on the eve of summoning of the winter session of the Parliament has been described in the media as an example of how the government is not transparent in transactions.
- Positive points of the decade: transition to democracy, emergence of civil society, vibrant political parties, formulation of a democratic constitution, impartial handling of general elections, practice of free media, local self – governance and macro – economic stability.
- Democratic accountability
- There is confusion in various levels about the distinction between responsibility and accountability.
- Elected representatives are politically accountable to the electorate. The executive is collectively responsible to the House of Representatives. Ministers are also individually responsible to the Prime Minister and the parliament for the work of their ministries.
- Government decisions and parliamentary enactments are reviewable by the Supreme Court.
- There is a provision for responsibility for acts of omission and commission.

Legislature

- There is a constitutional provision for bicameral parliament.
- The House of Representatives comprising 205 members is directly elected by the people of as many constituencies of the country for a five year term. The National Assembly – is a permanent indirectly elected cum nominated body of 60 members.
- The legislature is, among other things, required to approve the budget. Some expenditure chargeable on the Consolidated Fund under Article 76 does not need annual approval of parliament.
- A code of conduct is under consideration at the moment.
- There is an independent Election Commission that has presided over at least five major elections in the last ten years.
- All of them changed the face of those in power at the centre and also at the local level.
- Although critics have alleged irregularities, vote-buying, manipulating counting, over spending, booth capturing, misusing government power, misleading voters, influencing poll officials and rigging in the polls in various ways, their results have never been challenged in totality.
- A few cases have been examined over the years under petition by the Election Court.
- Voice for the neutral election government to preside over the poll has been raised.

- The EC has to be responsible for the control of all corrupt practices. But its strength in the present dispensation is not adequate.
- Both Houses are competent to hold public officials to account and question the government action.
- The Parliament appears to be busy mostly for what observers term power game and petty party politics. Both the ruling and opposition parties appear engaged in filibustering the passage of some bills not palatable to them.
- Two way dialogue between people's representatives and the people does not usually continue after election.
- The political parties' poll manifestos are also not followed once parties capture power.
- The Public Accounts Committee appears exceptionally active in questioning the deeds of the government.
- Very recently a Parliamentary Committee solicited suggestions nationwide regarding the Property Rights Bill for girls triggering a new trend of mobilizing public opinion for legislation.
- Some politicians criticize the parliament saying it cannot represent the diversity of Nepal. They advocate proportional representation and a say for small political parties.
- They denounce the high handedness of big parties specially the numerical game based on majority in the parliament.

Political Party Funding

- Political parties' role as opposition looks always effective, pro-people and appealing, but their role as ruling party appears always weak, partisan, inept and in some cases anti-people.
- As for funding political party there are no specific rules.
- There are rules on political party expenditures for election purposes. Their accounts are not checked by an independent institution.
- The history of political parties in Nepal begins with the underground movement launched to found the first party Praja Parishad some 64 years ago in Kathmandu's Om Bahal locality.
- In the decade of the '50s, political parties could not do well in consolidating democracy because of their internal feud and mutual mistrust.
- The parliamentary experiment was not allowed to continue for long. The then King dissolved the elected parliament, banned political parties to introduce non-party Panchayat polity.
- Most political parties currently active and functional were underground for 30 years until 1990.
- The Panchayat System got ditched during the People's Movement, a historic political struggle launched jointly by democrats – Nepali Congress Party and Leftist Front.
- While the circumstance of working underground helped them refine opposition-politics, it did not allow parties to feel the need for developing cadre with skills in governance.
- Political parties which raised people's expectation during times of rebellion could not deliver goods or services through their government.

- In an attempt to make the political parties effective, several efforts have been made but they have not yet resulted in visible achievement suitable for a multi-party culture.
- One leftist party- Maoist- is underground; has been engaged in violent movement; and questions the utility of the present parliamentary system.
- Small parties complain that the big parties have not allowed them to grow.
- They are not happy with the present provision of not according the status of national party to the party failing to capture a minimum of three percent of the total votes cast in general election.
- A few say the country should go for two party system; others point out the need for at least four parties – two among democratic and two among leftists for expanding the opportunity for choice.
- Political parties must get themselves registered with Election Commission for participating in the election.
- All major parties have already formed government in different times.
- State funding of political parties or financing them in meeting election expenditures is a topic that crops up often
- Supreme Audit Institution (Office of the Auditor General)
- The Office of the Auditor General is responsible for carrying out an audit of the accounts of all public offices and public corporations.
- Its observations, recommendations and findings rarely command prompt response from institutions concerned.
- The appointment of the auditor general is required to be based on professional criteria/merit.
- All public expenditures are audited annually.
- Public Accounts Committee debates it and pursues investigation in accordance with the indication of the report
- It presents detailed, and often critical reports to parliament on the utilization of public resources specially expenditure - portfolio.
- The concept of functional audit has attracted the attention of the Office, but has not been pursued seriously.
- Foreign aided projects do not come under the AG jurisdiction. A move to get them under it is seriously voiced but not yet listened.

Judiciary

- The 1990 Constitution of Nepal has guaranteed an independent judiciary having the final authority to declare any laws or governmental actions as void if they are not found consistent with the Constitution.
- The Supreme Court has also the jurisdiction to hear public interest litigation and other writ petitions and issue necessary order to ensure justice to the victims including certiorari, mandamus, injunction, prohibition and the habeas corpus.

- The courts have the jurisdiction to review the actions of the executive.
- The appointees are protected from removal without relevant justification.
- Effective judicial activism has been practiced over the years in some public interest litigations.
- The Judiciary is also under criticism in modern times.
- Reasons for criticism: Inconsistency in interpretation of the Constitution and the laws, conservative attitude in handling public interest litigation, increasing corruption and the delays in delivering judgments.
- It might not be easy for Nepal's constitution to bring about balance and harmony between the parliament and the judiciary.
- The country's parliamentary system is developing under the inspiration of the principle of supremacy of the parliament as practiced in the United Kingdom while the independent judiciary is being consolidated in accordance with the concept of constitutional supremacy as followed in the US.
- In such rather confused situation independent and strong Constitutional Bodies should have contributed to good governance by bringing about required balance, some maintain.
- Others argue the Bodies themselves being no more than administrative units and highly dependent on government for manpower, budget and other physical facilities cannot make independent contribution to governance as desired by the constitutional spirit.
- The Constitutional Council makes recommendations for the appointment of the heads and members of the constitutional bodies. It aims at being a symbol of checks and balances in the broad mechanism of governance.
- But in spirit it goes against the doctrine of the separation of powers, and seeks to bring all those who should be acting independently under separation of powers into one forum for certain decisions.
- This has indirectly insulted the independence of organs of State.
- The Constitutional Council has not yet developed procedural mechanism for functioning.
- The judiciary appears conscious of public criticism, talks of reform, expresses enthusiasm for effective change and aims at being a reliable "keeper" of rule of law and of realistic justice for the people.

Rule of Law

- Nepal is a country governed under the rule of law.
- The fundamental rights are guaranteed by the Constitution.
- Parliament cannot abridge or take away the rights. All citizens who are considered equal before the law enjoy the right to constitutional remedy.
- The Supreme Court is empowered to review the legislative enactment and the executive actions with a view to ensuring their compatibility with the spirit of the Constitution.
- The separation of power between the executive, legislative and judiciary is practiced.
- There is also provision for several constitutional bodies.

- The principle of no taxation without representation and respect for civil rights constitute the basis of the country's governing system.
- In practice citizens do not get the opportunity to feel the rule of law.
- A big gap divides the laws mentioned in books and their enforcement.

Civil Service (Public Service)

- The Public Service Commission, a Constitutional Body operating under Article 101, has been entrusted with a mandate to conduct examinations for the selection of competent persons to be appointed to the post of civil servants.
- The appointment and promotion of civil servants and departmental actions against them are regulated by the Civil service Act 1992.
- All services and positions in His Majesty's Government are considered included within the Civil Service, except Army Officers and Soldiers; the service and positions of Police Personnel and some other services excluded from the Civil Service by law.
- There are laws establishing criminal and administrative sanctions for bribery under Corruption control Act. There are also rules requiring political independence of the civil service.
- There are no specific rules to prevent nepotism, cronyism, both of which are very much instrumental. Civil servants' rules and code of conduct make provision against acceptance of gifts and hospitality. They are, however, not usually observed.
- There are no restrictions on post public service employment.
- The procedures and criteria for administrative decisions for granting permits, licences, bank loans, building plots, tax assessments, etc. are published but not taken seriously.
- There are complaint mechanisms for public servants. But there is no protection measure for whistleblower.
- The mechanisms are not implemented in actual practice. Whistleblowers are penalized strongly if found out by commanding officials.
- Members of the public can complain through the complaint boxes of respective offices and through reporting to the watchdog institutes.
- The instruments are mostly not used because all complaints are considered motivated and therefore generally neglected.
- The PSC is required to present its report to His Majesty who "shall cause it to be laid before parliament."

Police and Prosecutors

Police

- The Commissioner of Police is not independent.

- Appointments are made under the Police Act 1956. They are sometimes overlooked because of influence.
- The appointee is protected from removal without relevant justification in accordance with part 3-10 of the Police Act 1956. This is not honoured in practice.
- Public prosecutors are part of government, so they are not independent.
- There are no special units for investigating and prosecuting corruption crimes. Government lawyers act as prosecutors and pleaders.
- The police and public prosecutors can use Anti-corruption Act 1961, Article 97 of the Constitution for undertaking anti-corruption proceedings.
- There are also provisions under Company laws to make private-to-private corruption punishable by law. The law is applied.
- Police are most criticized for not having civic sense and for being highly rude and offensive. The spirit of the Act under which they operate does not expect from them such behaviour.
- The police have not yet been able to earn respect from the people. They are known more for cruelty and rudeness in behaviour than for service, sympathy and tolerance.
- Police have, of course, depicted soft side by performing better in emergency relief work, rescue work, cooperation work, welfare work, service work in the society; they have however, not been able to get them recognized properly.
- A few experiments have been tried in community policing for making the police less of a force and more of a service with separate units for crime involving women and children. Some initial results are encouraging but these need to be extended across more districts in the country.
- The way the police developed as a force in history in the country is suggestive of how it grew to be more like a suppressive control unit equipped with only stick.
- Police Act 1956 came into existence some five years after the inception of democracy.
- The Act has been amended for five times in the past and has provisions for rights and duties for the police force. Although in force for quite some time the Act, which appears comparatively more democratic, does not reflect its spirit in the behaviour of the police operating in the country.
- The police cannot observe the rules regarding arrest of citizens; entry into the private property of people, and ensuring the principle that no one shall be twice vexed for the same cause.
- The Police are ill-equipped to cope with situations marked by conflict. They are poorly trained and poorly paid and are prey to surprise attack.
- The police are accused of extra-judicial killings, engineering disappearances of suspects and torture.
- There is political interference in the day to day running for the police..
- The search for " compatible IGP " is nothing but a politician's non-democratic way of running government, commentators wrote as the government changed IGPs on two occasions through highhandedness.

- Creation of armed police force, specially the trained strike force to curb violent movement is another frontier the government is embarking upon at present.
- A Royal Ordinance to this effect has already been announced for what people term crack paramilitary force.
- The government's way of introducing it through ordinance just days before the winter session of parliament has been severely criticized.

Public Prosecutors

- The Commission for Investigation of Abuse of Authority (CIAA) is considered the most prominent among public prosecutors.
- It has not been able to make its impact on the act of combating corruption.
- A bill to make it more powerful and competent to prosecute even the highly placed such as the Prime Minister, Minister, Lawmakers, and district judges is currently in the parliament.
- For equipping itself with equipments and manpower essential to make its prosecution based on solid facts, the CIAA has already begun process of seeking foreign help, which it had hitherto avoided.
- The Commission has already started negotiation with Asian Development Bank for this.
- CIAA has been established as a constitutional body in order to conduct inquiries and investigations into cases of improper actions and corruption. The lack of necessary legal provisions, physical facilities, efficient manpower, etc. are problems when conducting investigations into a sensitive and difficult white collar crime such as corruption and having the guilty punished by court.
- The Attorney General is the chief legal advisor to the government with a responsibility to give opinions and advice on constitutional and legal matters to the government and other public authorities.
- The AG or officers subordinate to him represent His Majesty's Government in suits involving the rights and interests of the government. It is the Attorney General who makes or takes the final decision as to whether or not to initiate legal proceedings against a person in a court of law or before any judicial authority on behalf of His Majesty's Government.
- The AG has the right to appear in any court, office or authority of the Kingdom. Similarly, the AG has the right to appear and give opinions on any legal question in either House of Parliament, in parliamentary committees or in the joint session of parliament.
- Special Police Department is another prosecutor that has to function under the umbrella of the CIAA in specific areas in accordance with a Supreme Court verdict.
- There is controversy about prosecuting power among the CIAA, AG and the Special Police Department. The verdict has clarified most of it. The bill under the consideration of the parliament will further clarify their role, experts believe.

Public Procurement

- It is the sector most plagued by corruption in the country. In common parlance, public procurement is termed as " the gold mine " for those engaged in it.

- The area is a great network for earning money illegally and it links all in the establishments in various ways.
- Financial Rules, Regulations and Procedures along with the Ration Contract Arrangement Regulations seek to check corruption. But they are seldom observed.
- The principle of buying cheap in a competitive market through quotation of price and bidding is not honoured in practice.
- Series of reports by the Auditor General including the latest 37th one released in 2000 have pointed out the loopholes, wrongdoings, and the tendency to misinterpret laws.
- Rules for public procurement require competitive bidding for all major procurements. Financial rules, regulations, ration contract rules 1961, regulations related to construction materials procurement, and other guidelines for buying public goods are often overlooked.
- Several ways to bypass them have been developed over the years. Detection of the irregularities in this respect by the auditors is regular feature, but of no value. The rules are laid down in documents but there are some bureaucratic hurdles for having access to them.
- There are no strict formal requirements that limit the extent of sole sourcing.
- All major public procurement are widely advertised to the private sector, but not as widely as expected by the private sector.
- Procurement decisions are not made public. Sometimes they are made public through notice board.
- There is no procedure to request review of procurement decisions. An unfavourable decision can be reviewed through petition in a court of law.
- There are provisions for blacklisting of companies proved to have bribed in a procurement process. But since blacklisting might create additional burden legal challenge, and social insult people generally avoid it. Actually the chance of the bribing companies to be rated good is high, and the question of blacklisting might apply to those companies that do not bribe and are therefore considered inept to compete.
- There are rules and procedures to prevent nepotism/conflict of interest in public procurement under code of conduct concerned and Anti – Corruption Act 1961. But they are not observed. The assets, incomes and life styles of public procurement officers are not monitored.
- Several regulations for purchase - direct purchase allowed generally for goods costing up to 5 thousand rupees (approximately 75 \$); rate or price quotation purchase required for goods valued over 5 thousand up to 50 thousand (750\$) - in the case of construction materials up to 150 thousand rupees (2,250\$); bidding required for all purchases beyond that value – are operational but they are not observed at all. Purchase from Sajha, a Nepali co-operative institution, is of course allowed to be on direct procurement, but this provision is misused and most offices are reported to have bought goods that Sajha does not sell.
- As per the law the purchaser should first go for competitive sellers either for price quotation or bidding and then decide on the cheap rate or quote.
- But in practice unhealthy trends are in vogue: the favourite seller is given chance straightaway, quality of goods is overlooked, direct payment is preferred as against other forms, purchase from suppliers is discouraged, procurement in the beginning of fiscal year is avoided for emergency purchase at the end to justify doing away with price quotation and

bidding, models of sealed quotation are usually changed to suit the circumstance and preferred seller.

- Some other wrong practices:
- specification of goods is mostly ignored while procuring,
- the central offices make procurement of even such goods as are available at the local areas,
- they buy and supply goods without the knowledge of the local offices, sometimes they receive from the center goods they do not need but they cannot voice against it,
- purchase of goods other than the ones endorsed is the rule,
- foreign – aided goods are not properly recorded for creating the need for purchase of the same goods in local market,
- defense and home offices do not honour the Ration Contract Arrangement Regulations 1962 (the 50% advance to contractors for ration supply is mostly misused;
- the calculation of mid-January to December as the ration contract year is also construed to the disadvantage of the public fund),
- Advance Payment Regulation 1976 is totally ignored.
- Donor –driven network of commission payment for public procurement is a highly discussed theme in modern times. Although the conditionalities of aid – grant or loan or technical cooperation – normally do not surface in a direct or transparent manner, they hold the key to the whole aid-package and critics point out "there lies the seed of corruption."

Ombudsman

- Nepal does not have the background of what is construed as Ombudsman in international arena. However, the Commission for Investigation of Abuse of Authority is explained by some legal experts as Nepali equivalent of Ombudsman.

Investigative/ Watchdog Agencies

- There are special investigative or watchdog agencies such as the Commission for Investigation of Abuses of Authority, Special Police, and some special investigation committees formed under Nepal laws. The Commission is independent but the Special Police is not.
- The appointments in the institutions are to be based on merit. But they are generally not based on merit.
- The appointees are protected from removal without relevant justification. Their reports are published. The CIAA report gets laid down before parliament.
- People can complain to the agency without fear of recrimination, but they actually fear their secret complaint might get public.

Anti – Corruption Agencies

- A survey of the institutions engaged in fighting corruption at various levels in Nepal reveals an interesting picture marked by plurality in approach and variety of style.

- Anti – Corruption Agencies: Accountant General's Office, The Commission for Investigation of Abuse of Authority (CIAA), Chief District Officer (CDO), Special Police Department, Revenue Investigation Department (RID), Auditor General's Office (AdGO),
- Most of the anti – corruption agencies are ineffective in checking corruption. They complain that they do not have sufficient financial, material and manpower resources for doing their job properly.
- Some do not have clear jurisdiction of functions and authority while others are suffering from duplication of role. They have been portrayed in the media as "paralyzed bodies silently looking at the way corruption flourishes and blooms day in and day out."

Media

- Nepal's media sector enjoys democratic freedom through constitutional provisions.
- They point out how important it is to have the right to information act, which, however, has not yet seen the light of the day.
- There is a law guaranteeing freedom of speech and of the press.
- There is no censorship in the media. But the government has recently banned the rather popular private news programme of the FM stations in an unprecedented move to censure electronic media.
- The media ownership spreads widely ranging from government, private companies, joint ownership ,partnership to cooperative.
- No publicly owned media regularly cover the views of government critics.
- Some journalists investigating cases of corruption have been physically harmed in the last five years. threats, challenge and indirect penalizing are normal in serious corruption investigation cases, in some cases the top press boss is asked to discourage reporters.
- The media carry articles on corruption.
- The media licensing authorities do not use transparent, independent and competitive criteria and procedures. The libel laws or other sanctions are used to restrict reporting of corruption.
- The freedom enjoyed by the media under the provisions mentioned above has been instrumental in boosting the media industry, augmenting investment, raising the number of media institutions and products including radio stations and broadsheet dailies, widening the use of computer and off – set printing press not only in the capital city but also areas outside the Kathmandu Valley.
- The mass media in Nepal can be described as being (a) urban based, (b) with low circulation, (c) too politicized (d) full of sensationalism, (e) highly polarized, and (f) too elitist in nature. It has, therefore, largely failed to reach and influence the majority of the people living in rural areas.
- Media critics often point out various shortcomings of press products such as lack of true information, unfair treatment in news, absence of proper sourcing, political bias and high dose of views as against the facts.
- The low quality of media products is the direct result of untrained press manpower.

- Analysts explaining the reason why media profession could not develop efficiently in an atmosphere of press freedom generally point out poverty, low literacy, political ambition, hilly terrain, motivated investment, low level of trade and industry, absence of reading culture, lack of adequate facilities and slow transfer of technology as the leading constraints.
- Corrupted practice in the media themselves are responsible for no proper development in the media, argue some.
- The weak financial position of the media motivates them to adopt such practices, explain some. Voicing the cause of those who fund appears to the main practice which has damaged the noble cause of the media.
- Although all political parties agree in principle that democratic governments do not run the press themselves, their governments in Nepal have in different times presided over the print media – The vernacular Gorakhapatra, The Rising Nepal – the news agency RSS, the Radio Nepal and Nepal Television.
- The trend has resulted in unhealthy competition among the media players and created row over advertisement distribution.
- The monopoly over news broadcast reserved for NTV and Radio Nepal has also caused dissatisfaction among the operators of other electronic media. They feel handicapped because of this and the point has become a source of tension at times. There is no sign that the trend will change in near future.
- The number of newspapers registered at present in various districts: 2,672 including 185 dailies, 953 weeklies, 704 monthlies.
- Radio Nepal reaches the whole of Nepal through short wave; its transmission through medium wave can be received by about 80 per cent of the people.
- In the private sector the Frequency Modulation FM stations - seven in number - are serving the listening public. Four more are to enter the market soon.
- Radio sets stand at 2 million.
- Nepal Television is accessible to 47 per cent of the population in 32 per cent of the country's land area. It has 114 hours of broadcasting per week.
- The private sector is engaged in procuring time from NTV and cable television broadcast.
- Number of TV sets amount to 150,000 and TV viewer is equivalent to 2.5 million.
- Some other facts and figures on the information technology industry scenario of the country depict high potentiality of growth. The IT sector could be instrumental in consolidating the media.

Civil Society

- Civil Society in the form of professional organizations, religious associations, consumers' groups and others, although not entirely new phenomenon in the country, is, from the view - point of public feedback or pressure group or public critiquing, a recent emergence.
- Yet it has made a significant headway. Decision-makers in government, academia and advocacy group recognize the potentiality of the civil society and appreciate its contribution to empowering initiatives that compel the State to be more responsive and accountable.

- Because of this the State is conscious and thinks twice in operating monopoly service, non-responsive services in several sectors with no "exit" option for the user of the service. Citizens' voice has, therefore, been a catalyst for change.
- However, the public does not have access to information and documents from authorities. The right to information Act is under consideration in the parliament. Public authorities do not generally cooperate with civil society groups. They have to demonstrate and agitate or undertake some other means of expression for convincing the public authorities. First requests, polite appeals, or written call are generally ignored.
- Almost all stress campaigning against corruption; some have specific strategy to campaign against it. The apex body of business and industry sector FNCCI has pledged to lead social movements against corruption. Organizations related to youths, women, lawyers, teachers, medicos, social work are all committed to work for ending the vice of corruption in their own ways.
- Transparency International Nepal has from its inception in 1996 dedicated itself to augmenting public accountability and curbing corruption in all walks of life. Through activities designed to make public conduct and behaviour transparent and sensitizing people to be conscious of the benefits of transparency in the government, public institution and society, TIN has already made its impact on the society. Its encouragement to public organizations for formulating and implementing a code of conduct is considered exemplary. TIN's introduction of Integrity Pact through an agreement with the Bhaktapur Municipality which is one of the five sister cities of Kathmandu Valley is a considered a milestone. Equally important is the IP pursued in Butwal, west Nepal.
- Lawyers have encouraged public litigation. Women have mobilized themselves for voicing against the corruption. Youths motivated all to be serious about the corruption.
- It is because of their pressure that political parties have adopted the theme of acting against criminalization of politics and politicization of crimes.
- The Tarun Dal, a youth wing of the ruling Nepali Congress adopted in an innovative manner the theme of anti-corruption; got interaction programmes held in different places besides having some of its own men penalized and organized series of public discussions.
- The Opposition Party CPN UML specified 530 people as engaged in corruption and got their names announced in a public meeting in Kathmandu in April, 2000 in a rather unprecedented manner.
- Several organizations such as Free Opinion Front FOF, Pro-Public, Bcesc have contributed significantly to creation of public awareness to check corruption. Consumers forums and users of transport and public services have been found to be more vocal about the negative impact of corruption on their welfare.
- General monitoring of government's performance in areas of service delivery takes place occasionally; but the practice is neither established nor specific. Citizens groups do not regularly make submissions to the legislature on proposed legislation. In recent times exchange of views between members of the legislature and citizens groups take place frequently.
- Some intellectuals opined at the focus group discussion that the civil society's contribution to exposure of corruption-process in various sectors was most notable.
- They specified as most corruption-prone areas various sectors such as land revenue, land reform, customs, tax, development / construction works, procurement, drinking water,

telecommunications, telephone, electricity, district police office, district administration office, forest, court, government prosecutor's office, municipalities and transport. The Corruption Control Advisory Committee has also confirmed in its report what the civil society has been saying over time.

- Had the governments of the past targeted the areas for curbing corruption, things would have been improved, said media comments on the report.
- The scope of civil society has widened over the years keeping in view the trend to move away from the traditional society and embrace ideas such as social mobility, modernity, political thinking, urbanization and to some extent secular thinking.
- Although the Civil Society has not been successful in creating political culture in which knowledgeable citizens build consensus with high sense of tolerance, it has been able to motivate people and organizations to move towards this direction.
- It might of course take long to achieve the goal of civic culture with high virtues of good citizens including moderation, tolerance, open-mindedness, respect for minority rights, informed decision-making, opinion formation and full participation in political discussion, processes and organizations.

Civil Rights

- Civil rights of Nepalis, particularly their fundamental rights, are guaranteed by the highest law of the country.
- The provisions: the rights to equality, freedom (of opinion, expression, assembly, union, movement, residence, occupation), press and publication, criminal justice, information, property, religion, privacy, constitutional remedy and right against preventive detention, exploitation, and exile.
- But because of the poor or negligent implementation, the citizens have not been able to enjoy their civil rights properly.
- To ensure in practice equal civil rights for all citizens is a great challenge; it is more so in a multiethnic, multireligious, multilingual, and multicultural country like Nepal where, over 35 ethnic groups live and more than 70 dialects are spoken.
- Although the constitution guarantees the right to equality to all – no discrimination shall be made against any citizen in the application of general laws on grounds of religion, race, sex, caste, tribe or ideological conviction or any of these – all citizens have not been able to enjoy it equally in practice.
- This has given birth to a sense of being discriminated among a number of people.
- In the five years since the commencement of tension under what is termed Maoist People's War movement, 1513 (999 Maoists, 263 civilians, 251 policemen) people have lost lives, according to latest figures published in the media. 656 policemen and 592 civilians have been wounded. 5,943 Maoists have been arrested and 1656 of them have been prosecuted. Maoists kidnapped 380 people including 39 policemen (5 of them still not released).
- The scenario has compelled people to question government's ability to maintain law and order for allowing citizens to enjoy
- The government's recent measure to form armed police with separate IGP through Royal Ordinance has been interpreted as an attempt designed to suppress the movement without

resort to dialogue and criticized as undemocratic even by those who stress modernizing the police force and equipping them with latest technology.

Local Government

- There is no legal requirement for meetings of city/town councils to be open to the press and public. They are usually invited for opening or concluding sessions. They are not expected to attend the meetings, but their decisions are usually published.
- There are no clear criteria restricting the circumstances in that city/town councils can exclude the press and public. Discretion of the presiding officer holds the key to this point.
- The basic tenets behind local government in Nepal have been enshrined in the Constitution in the form of the Directive Principles and Policies of the State.
- The actual framework to implement them have been worked out through various laws.
- LGIs in Nepal also participate in national parliamentary activities in the Upper House through their 15 representatives who are elected by an electoral college comprising elected local bodies.
- The philosophical base of upgrading or valuing the linkage between local governance and national governance has been commended by many.
- Moreover, the provision ensures wider participation of people at the grass-root level besides creating atmosphere of unity among socio-cultural diversities and varying geographical reasons.
- The Local Self-Governance Act 1997 has, by arranging one elected seat in each district and village development committee for women to boost prospects of female participation to the tune of 40,000 heads in the local governance, contributed not only to female-awakening but also to gender equality in local leadership, decision-making and participation.
- Attaching the concept, procedure and programme of decentralization to those of local government is another characteristic of LGIs.
- The existing legal structure of local government and decentralization is based on Village Development Act, Municipality Act and District Development Act. They provide for election to local government bodies on adult franchise basis for every five years.
- Critics opine that the issues of local government and decentralization have been confined to rhetoric and paper-works.
- The high concentration of power at the center is the reality that no one denies and this has been the main hurdle for making the local government efficient, accountable and transparent.
- The man-power in the local government is mostly untrained in matters of administration, assertion of one's rights, planning, and mobilizing resources rendering local bodies - 75 district development committees, 3912 village development committees, and 58 municipalities – not able to deliver governance and development to the expectation of the people.
- Political will of the central government to empower local government is lacking in practice and the absence of full autonomy provisions, infrastructure, awareness, participation and confidence at the grass root level creates further problems before the local bodies.

- Progress with Government Strategy
- The Government has not announced an anti-corruption strategy and a timetable for implementation. But it has pledged to eradicate corruption.
- The present Prime Minister came to power with this point included prominently in his three point prime agenda. However, neither strategy nor timetable has been announced yet.
- The series of corruption scandals being reported in the media are usually not responded.
- One point emerges in a distinct manner: What the Interim Finance Minister Dr. Devendra Raj Panday had mentioned, in the key government document 1990-91 budget, as problems of the day – commission system, black market, and corruption, due to lack of political responsibility, highhandedness of irresponsible power centers – and suggested specific measures to reform distortions and correct the phenomenon has actually been reiterated by the present Finance Minister Mr. Mahesh Acharya ten years later in similar statement in a somewhat different phraseology. This clearly manifests how the vice of corruption has continued to plague the Nepali society.
- In between came the much talked remarks from another Finance Minister Mr. Rabindra Nath Sharma who presented the 1997-98 budget and later said in a parliamentary committee "there was corruption yesterday, there is corruption today and there will be corruption tomorrow." Prime Minister Mr. Girija Prasad Koirala's recent sounding off in public on a nexus between parliamentarians and smugglers confirmed the same point in a rather indirect way fueling heated political debate on the corruption machine.
- The CIAA has recently made itself very active in investigating the national flag carrier RNAC deal for leasing a Lauda Air Jet against the directive of the parliamentary Public Accounts Committee. The RNAC General Manager has been suspended and the Civil Aviation Minister resigned over it after the CIAA began enquiring them about it. More action might follow in days to come, say officials in the Commission. The government has already made it clear that it intends to strengthen it both legally and materially.
- In 2000-001 (B.S.2057-58), the government plans to combat corruption by getting three bills in the parliament endorsed:
 - amendment to the CIAA Act,
 - Anti-corruption Bill,
 - provision for Special Court
 - and measures to update the watch dog agencies.
- Implementing the counsel forwarded by the Advisory Committee on control of corruption and other reports of task force on the theme is the main goal of the government.
- Formation of National Human Rights Commission has been encouraging for some because it might act as an additional pressure group for making the government more transparent.
- Armed with so many intellectual and public inputs, the government looks determined to curtail discretionary power of officials, make laws that declare all properties that do not show up source of earning as corruption and check the social evil substantially.

- Augmenting the salary of officials and the lawmakers, the government intended to offer them reliable base for living and thereby reducing their dependence on lubrication of bribe.
- In 1999-2000 (B.S.2056-57), specific measures to reduce corruption in the land revenue office, customs office, Tribhuvan International Airport Office and other public offices were undertaken.
- Some reforms in the revenue administration. Consideration of forming various task forces and committees on finding out ways of checking corruption kept the government busy and resulted in the constitution of some. Restructuring the anti-corruption units was talked but not implemented. The government mentioned corrupted behaviour and financial indiscipline as one of the major challenges before the economy in annual budget (page 5); pledged specific programs for ensuring good governance and reforming development administration; stressed economizing in government expenditure and checking misuse of public resources.
- Three years 1998-1999 (B.S.2055-56), 1997-1998 (B.S.2054-55) and 1996-1997 (B.S.2053-54) witnessed almost status quo position in the strategy to combat corruption. Because of the hung parliament and ever changing governments, the anti-corruption measures remained dormant encouraging corruption-players to be more active, say intellectuals.
- The government always pledged something substantial but failed to materialize it. However, some ministerial and departmental measures were underway to check corruption.
- The governments of the period stressed administrative measures as tools to curb corruption. The public procurement, works and transport and contractual jobs remained beyond the effect of the government measures to check corruption during the period
- In 1995-1996 (B.S.2052-53), the government was pressed to introduce specific measures to curb corruption. However, it could not develop a strategy for this. It ended up in working out some ministerial mechanism for the purpose.
- Although detailed and oriented to nip corruption at the root, the mechanism could not become successful. However, the guidelines for auditing administrative expenses, receipt arrangements, project expenditure and functional audit were formulated and followed to some extent during the period.
- The year 1994-1995 (B.S.2051-52) had an elected communist government for nine months. Its Finance Minister Mr. Bharat Mohan Adhikary expressed in the budget firm determination " to control corruption and misutilisation of means and resources in the country in the name of development immediately and effectively."
- By the time the government was ready with a strategy to combat corruption it had time to leave. The strategy laid emphasis on distributive justice by ensuring non-corruption in the sector besides stressing financial openness at the center and at the local level.
- Three years before the communist rule - 1993-1994 (B.S.2050-51) 1992-1993 (B.S.2049-50), 1991-1992 (B.S. 2048-49), the government run by democrats was comparatively more stable and worked out some light measures for checking corruption.
- Reform in bureaucracy turned out to be the focus of the government. Several seasoned administrators got retired because of the government policy to inject new blood in the administration mainstream.

- It, however, could not chalk out any specific programme to do away with the vice. Because of internal squabble in the then ruling party Nepali Congress, anti-corruption strategy could neither be focused nor innovative.
- The year 1990-91(B.S.2047-48) was the interim period – a transition year between restoration of multiparty democracy and elected government.
- The twin goals of the government were to prepare atmosphere for finalizing the multiparty- parliamentary –democracy- constitution, and holding a fair general election for the parliament in accordance with it.
- Yet the government undertook several measures that corrected the distortions in the economy and social structure.
- Formation of several commissions and enquiry committees including the much talked Mallick Commission to detect irregularities and corruption of the past marked the basic anti-corruption approach of the time.
- The government had also made a mechanism to see that the corruption would not take place in public offices and places delivering service to the people. Critics, however, complain the interim government did not do enough to penalize the wrongdoers of the past.