

1st Draft

Report

A study of provisions and practices of Accountability in Nepal's Civil Society

Transparency International Nepal

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**(with special reference to the code of conduct for Nepali professionals in the media,
engineering, law, medicine, accounting/auditing, and business)**

undertaken by

R.K.Regmee

for

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Foreword

The study- A study of provisions and practices of accountability in Nepal's Civil Society – is an attempt to shed light on the component of ethics, as a decisive factor in promoting accountability, that professional organizations provide for in the civil society. What tools they have in possession to discipline their members has been explained in it. Description of the way the tools are used and not used in practical operation also constitutes an important part of the exercise. In order to position their accountability cum ethical stand in a comparative way, some sites of international practices have also been visited.

It is not the intention of this research-work to make the study focused on one individual professional organization. Neither is it to give judgment on whether one organization operates properly or not. The purpose is to have a bird's eye-view of the status of code of conduct in professional organizations of Nepali Civil Society, which will ultimately help it to devise ways to be accountable, besides being conscious, vocal, and participative.

To have a wider representation- glimpse of professional organizations, the sectors related to media, engineering, law, medicine, accounting/auditing, and private sector business have been chosen. It is entirely a random subjective choice. A number of other fields could, of course, have been as promising as the ones picked up.

The areas, however, are believed to be capable of portraying the state of accountability and ethical aspect of professional organizations of the civil society. For studying the provisions for code of conduct, the organizations have been studied through either their specified code or reference to it in their statutes or constitutions. In the case of medicos, the ethical guidelines of National Health Research Council have been taken up for discussion while in relation to the engineers, business persons and auditors the Constitutions of their Organizations have been studied. The specific codes of conduct of media persons, judges and lawyers have been analyzed.

Transparency International Nepal hopes the study will be helpful for those who are interested in being familiar with the accountability and ethical standards of civil society in Nepal. The NGO, which believes in combating corruption through coalition, transparency and accountability, also thinks the study could be useful, for sensitizing the issues of code of conduct among professionals across the country. It is, after all, through practicing the professional code of conduct that greater public service can be rendered in the civil society.

Transparency International Nepal
(the foreword should be updated by TIN)

About the Study

The present study entitled *A study of provisions and practices of accountability in Nepal's Civil Society* has been undertaken keeping in view the objectives and the methodology mentioned in the proposal (see Annex) submitted to Transparency International Nepal.

Taking stock of the accountability angle of professionals in the civil society is neither simple nor easy and there are, as is known to all research workers, various ways to perform the job. The study has adopted a non-statistical, non-academic means of surveying what sense of accountability professionals have while operating in their respective fields and what approach their organizations have adopted to ensure accountability. The attempt has been quite revealing, if not rewarding, for it has led to some definite fissures (see Conclusions) in the field of professional responsibility. If the cracks could be filled in properly and through specific ways (see Recommendations), all professionals discussed in the study will display comparatively more sense of accountability in future to the higher satisfaction of the general public. This will enable them to further contribute to the effectiveness of the civil society.

As for the methodology adopted during the study, the constitutions or code of the conduct of the professionals in the field of media, engineering, law, medicine, auditing and private business were collected and studied. This was followed by translation of some of them for explanation. Some professionals' codes of conduct of the international arena were then collected for study.

At a pre-study symposium, some experts stressed that both codes of conduct of some professionals and constitutions of some professional organizations should be studied. The codes of conduct of media persons, legal practitioners (judges and lawyers), and medicos were, therefore, picked up while the constitutional provisions of the organizations of engineers, auditors and private business people were selected for study.

One small focus group discussion of each group was also held for having the insight into the professional realities. Some officials and practitioners were then interviewed. Two sets of structured questionnaire (see Annex) were used for collecting the public view of professionals and professionals' views of professionals. The questions for collecting public view and professionals' views concentrated on professionals' accountability, dealing, professional standard and skill. Some 20 people in two sets were asked to respond to the questionnaire. Similarly 5 professionals from each of the six areas were also requested to respond. The majority view expressed in the responses was then tabulated for constructing matrix on both.

To find out the accountability in practice, some 10 components such as entry, promotion, ethical consideration, right to membership, right to practice, accountability, qualification, dismissal, awareness of accountability and monitoring that are considered helpful for enhancing the sense of accountability were selected. They were then viewed from the perspective of the provision in the codes of conduct or constitution of professional organizations, convention and practice of the profession. Tables were then developed to accommodate them in Tables.

Conclusion was then drawn from the whole study and specified in detail. Appropriate recommendations to remedy problems pointed out in conclusion were then prescribed. A schedule for TIN's joint venture with professional organizations has also been presented.

Difficulties encountered during study

Series of difficulties have been encountered during the study. They could be classified into mainly four:

- a) Tendency to avoid: the moment researcher mentions words or phrases such as ethical standard, accountability, code of conduct, professionals seek to avoid; series of appointments have been cancelled, series of questions have been evaded. They nourish the fear that their sharing of thoughts or ideas would expose them to their disadvantage in profession. Professional organizations also do not appear open in this regard and have sought to avoid the researcher. This did not allow a friendly give and take of views during meetings. Some sort of reserved expression marked most encounters.
- b) Mistaking research-study for crime-investigation: professionals and their organizations usually think the research –study as another exercise of investigating specific crime or finding out the individual irregularities in them or their organizations. This created difficulty in developing contact, and digging out information. A rapport was never established.
- c) Accusing others and defending oneself: The trend to accuse other professionals of violating the accountability - guidelines and defending oneself appears to be the rule. The practice of unbiased self-examination is just non-existent. To many, the present study itself has no utility. A few thought the study has been motivated to defame the professionals. Others argued the sense of accountability can never be studied.
- d) Fear to exchange documents and expose identity: Almost all professionals had fear of exchanging the documents. Except for the published ones, they showed high reluctance to provide access to documents that contain valuable information on professions and professionals. Most professionals expressed unwillingness to talk in details. They discussed matters only on condition that they are not identified specifically. (The report does not have reference to specified professionals.) This might sound rather unusual for some and quite natural for others. Various features, which characterized the period of study such as instability in politics, political unrest, change in government, uncertainty in social lives due to several internal and external factors may have, of course, intensified the trepidation.

R.K.Re gmee

1. Executive Summary

1.1 Accountability: The sense of accountability, backed by sound awareness, relevant knowledge and skill in the Civil Society of Nepal particularly professionals' organizations such as those of journalists, engineers, legal practitioners, medicos, accountants, auditors and business people seems to have been strengthened, if not institutionalized, over the past decade.

The provisions developed by them for practical operation have clearly emphasized the point of professional standard not only to secure survival in a competitive market but also to ensure accountability. It is because of the contribution of the civil society that the bills presented in the parliament have been seen increasingly enriched with professional contents and civil society angle. Due to their influence, the government and politicians have also made it a point to consider the views and stand-point of the civil society on various issues and sectors of national life.

The need for developing civil society, not only as units of service providers, knowledge transmitters, issue-talkers, or critique-artists, but also as participative, vocal, and accountable solution-seekers has been felt. The practice of well- formulated code of conduct would go along way in fulfilling the requirement.

However, they have not been able to practice the code of conduct properly. There is a need for them to work out a mechanism to make the professionals adhere to the ethical guidelines of their organizations.

1.2.Provisions: Some organizations like the Federation of Nepali Journalists, associations of legal practitioners, medicos have sought to discipline the professionals through Code of Conduct formulated already. Others are considering the provision while a few are enforcing the ethical standards through the provisions mentioned in their Constitution. Despite variation in approach, all have accepted the need for pursuing special guidelines to promote professional standards. Most professional organizations have also taken into consideration what their counterparts in the international arena do. Nepal's Constitution and its pledge to make institutions accountable and transparent also constitute the motive force for these organizations in formulating guidelines. That is why most have sought to be pro-people.

All, however, have not been able to make their member-professionals to abide by the ethical guidelines. The letters of ethical provisions have in some cases been no more than decoration-show-piece of their statutes. They often end up as the one -day- agenda of the mandatory annual General Body meeting of the Organizations. But some have made sure that the guidelines are followed in recruitment, promotion, disciplinary action and other business dealings.

1.3. Practice: As regards the practice of code of conduct in the professional organizations, the impression is rather mixed and not encouraging. The much-talked indicators for civil society – ability to organize through the formation of non-government organizations, absence of restrictions in this regard, presence of justified restrictions to ensure accountability, no need of license for holding public meetings – are visible in the country. But the professions are not subject to disciplinary measures in practice in the real sense of the term. Nominal action against professionals in some exceptional cases cannot prove that the code is maintained well. There are many instances in which professionals do not lose their right to practice even if they do not observe the code of conduct.

1.4. Comparison: A comparative study of the professional standards of professionals in Nepal and those in the international arena displays theoretical similarity and practical difference in a remarkable manner.

A number of professionals- journalists, engineers, legal practitioners, medicos, accountants, auditors and private business persons- have derived a lot from international provisions. They have, unfortunately, not been able to practice them for one or other reason. Since most of the professions are modern and have more international dimensions than local roots, the copy of their provisions in the country is understandable.

The issue why the same international convention of profession could not inspire people to practice the same in the country is raised often but seldom responded. The question becomes more complicated at times when people find out that most modern professionals of Nepal are trained abroad or have acquired western education or training in the country itself.

1.5. Documents: The study has a collection of some important documents on ethical standards of the professions like journalism, engineering, legal practice, medicine, accounting, auditing, and private business. The international provisions in this regard have also been presented for the sake of comparison. The media persons' code of conduct, the constitutional provisions of engineers' association, lawyers' code, the same of judges, medicos' ethical guidelines as developed by National Health Research Council, auditors' ethics, and the constitutional arrangement of the organization of trade-persons have been discussed in detail. The documents go a long way in revealing the total scenario of ethical standards worked out and practiced in the country.

2. General trends of accountability in Nepali Civil Society

Nepali Civil Society has demonstrated its effectiveness as pressure group over the years and made government respond to their demand to some extent. Among those that have been active in this respect are journalists, engineers, legal practitioners, medical professionals, accountants/auditors and private sector business people. All of them have either through their organizations or professionals played important role in strengthening democratic practices, emphasizing professional quality in their work and forcing government to be serious in work for the public cause.

However, they have not been able to gain public appreciation for their professions and conduct. This is not to say that they do not enjoy high protocol status in the society.

The Civil Society, although not highly developed in structure, and not well financed as a force, has been taken as successful for its contribution to the following: helping awareness building, empowering citizens, informing them about their rights and duties, encouraging people to live in unity with high respect for individuality and plurality, and motivating the service users to speak out and voice grievances.

The way Nepali society made adjustment in the transition from a non-party regime of pre-90s to a multi-party dispensation in the last decade could partly be attributed to the contribution of the Civil Society. Because of its inspiration, the professional organizations, NGOs, religious groups, cultural units, private sector traders and industrialists have developed a sense of participation in activities of public concern and service to the people. Although the cause of the oppressed, disadvantaged, backward and the weak has not yet been served adequately, their problems have been voiced through the forums of the civil society. The latest government decisions -to declare untouchability a crime, to implement land reforms, to constitute high level Commissions for the marginalized people and women- also reflect the voice of the civil society.

Thanks to its service, the slave-like status of the nearly 100,000 Kamaiyas (bonded labour) has been discussed publicly and efforts made to enable them lead citizens' lives; the issue

of the impact of development works on environment and society has begun to be raised; the theme of gender equality has been taken up; the demand for rural and remote area development has been aired. Various issues such as trafficking in girls, women's right to property and parental property, child labour, children's rights, deteriorating situation of prisons, torture in police custody, irregularities in public offices have been widely talked and suitable remedies sought. The government has also addressed the issue of landless farmers and tenants.

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.

Accountability of professionals, some experts opine, is determined by the way they enter the profession. Their previous background particularly education and training should play important role, others argue. As per provisions engineers and medical professionals have to be educationally qualified to enter the profession. Legal practitioners and auditors can do so only after completing relevant education and fulfilling the minimum legal requirements for the job. Journalists, accountants and private business people can join the profession straightaway, in most cases, virtually with no relevant training. The diversity in ways of entry into the profession should have resulted in varying degrees of accountability of professionals.

In practice, however, the professionals do not seem to differ much in the tendency of being accountable. Generally they display more or less the same characteristics in point of accountability. Professionals said during interview " this is the result of lack of device to monitor tools of ethics- code of conduct- and undertake disciplinary measures in a steady manner. The right to organize guaranteed to the professionals has not been backed up by suitable means to mobilize them in the organization."

The following Table, derived from discussion in focus group, points out how professionals enjoy the right to organize and act under their respective organizations, which provide for the tools of ethics for them. The state of disciplinary measures regarding their conduct reflect not serious attitude, which affects in turn the accountability of the professionals and their organizations.

Table I

Professionals	Institutions	Tools of accountability	Monitoring	Right to Organize	Disciplinary measures
Journalists	Federation of Nepali Journalists and Nepal Press Council	Code of Conduct 1999	not seriously pursued	Guaranteed	of book value only
Engineers	Nepal Engineers Association 1968	NEA Constitution: Third Amendment 1995 Code of Conduct (under consideration)	not seriously pursued	Guaranteed	of book value only
Legal Practitioners	Nepal Legal Practitioners' Council, 2050 B.S. (1993)	Code of conduct	not seriously pursued	Guaranteed	of book value only
Medical Professionals	Nepal Health Research Council 1995/ Nepal Medical Association/ Nepal Medical Council	NHRC's Ethical Guidelines	not seriously pursued	Guaranteed	of book value only
Accountants and Auditors	All Nepal Auditors Association 1982	Constitution (amendment 1998)	not seriously pursued	Guaranteed	of book value only
Private Business People	Federation of Nepali Chambers of Commerce and Industries 1997 amendment	FNCCI Constitution and Convention	not seriously pursued	Guaranteed	of book value only

Right to organize, means to ensure accountability: The above Table depicts the scenario in which specific professionals have used their right to form organization, the names of institutions, their tool to ensure accountability, the sad state of monitoring and negligence in undertaking disciplinary measures. While all professionals such as journalists, engineers, legal practitioners, medicos, auditors and business people are attached to their professional organizations and all have devised ways to be accountable, they are not serious about monitoring professionals' behaviour in relation to the tools of accountability. Their umbrella institutions as shown in the Table are serious in guaranteeing the right to organize, but fail in practice to implement disciplinary measures.

3. 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 and may be brought 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.

3.1 Professional standards

One of the defining characteristics of a professional body is its readiness to set standards for the performance and conduct of its members and to discipline them if they fall short of those standards. The principal objective of all professional bodies is to maintain high standards of practice and professional conduct by all its members.

The ethics of a certain profession is the code by which it regulates actions and sets standards for its members. The professional code attempts to assure high standards of competence in a given field, strengthen the relationships among its members, and promote the welfare of the whole community. A professional code does not automatically achieve these goals, but it does serve to guide and remind people of them. The professional code sometimes makes provision for dealing with members who violate the professional ethics of the group. In addition to the professional ethics, public laws may regulate a profession in cases where the public interest is at stake.

Some professional codes have a long history. Doctors, lawyers have always worked according to careful and exacting standards. One of the best known codes is said to be the Hippocratic oath, in which the Greek physician Hippocrates pledged the medical profession to the preservation of life and the service of humanity.

Members should behave with integrity in all professional and business relationships. Integrity implies not merely honesty but fair dealing and truthfulness.

Members should strive for objectivity in all professional and business judgments. Objectivity is the state of mind, which has regard to all considerations relevant to the task but no other.

Members should not accept or perform work, which he or she is not competent to undertake unless the person obtains such advice and assistance as will enable him or her competently to carry out the work.

Members should carry out his or her professional work with due skill, care, diligence and expedition and with proper regard for the technical and professional standards required of him as a member.

Members should conduct themselves with courtesy and consideration towards all with whom they come into contact during the course of performance of work.

Viewed from the angle of the professional standards, the journalists, engineers, legal practitioners, medical professionals, accountants and auditors and private business people in Nepal could be safely categorized as true professionals. They are accountability-conscious as well. But because of their vulnerability to political pressure, clerical mind-set, commercial attitude and lack of will to stick to the professional standards, they have not been able to impress

the people. Their organizations' failure to function as per the provisions of their constitution and implement the code of conduct is another reason why professionals have not been effective. This has resulted indirectly in the very effectiveness of the civil society as a whole.

The following tables sum up the views of the public and professionals on the accountability of the six types of professionals mentioned above. Their views had been gathered during the course of the study on the basis of asking 20 people and 10 professionals structured questions (see Annex: questions: people, professionals) on the points mentioned below. The majority view has been recorded below.

Table No. 2

Public View

Professionals	Accountability	Dealing	Professional standard	Skill
Journalists	not serious	political tilt	poor	good
Engineers	negligent	not bad	poor	excellent
Legal Practitioners	careful if paid well	good	good	good
Medical Professionals	not serious	should improve	good	excellent
Accountants and Auditors	careful	good	poor	excellent
Private Business People	self-centred	profit determines	poor	tactical

Accountability mirror: The above Table mirrors how people perceive accountability, dealing, professional standard and skill of professionals. Journalists are considered to have good skill, but rated poor in professional standard, are found to have political tilt in dealing and not serious in the sense of accountability. Engineers are described as negligent in accountability, not bad in dealing, poor in professional standard but excellent in skill. Legal practitioners are found to be careful if paid well, described to have good dealing, good professional standard and good skill. Medical professionals are said to have excellent skill and good professional standard but not serious in accountability and are advised to improve dealing with the people. The accountants and auditors are taken as careful in accountability, good in dealing and excellent in skill but poor in professional standard. Private business people are perceived as self-centred in accountability, tactical in skill and their dealing is determined by profit. Their professional standard is said to be poor.

Table No.3**Professionals' View**

Professionals	Accountability	Dealing	Professional standard	Skill
Journalists	fully accountable	fair dealing	moderate	should improve
Engineers	accountable	business dealing	investment determines	already skilled
Legal Practitioners	fully accountable	professional deal	as per laws	already skilled
Medical Professionals	fully accountable	human deal	medical standard	already skilled
Accountants and Auditors	accountable	business deal	professional standard	skilled
Private Business People	accountable	business deal	as per trade convention	skilled

Professionals' self-judgment: The above Table presents the word -portrait of the professionals in their own style. Journalists say they are fully accountable, have fair dealing, moderate professional standard and consider they should improve their skills (for they enter profession without acquiring skills). Engineers also consider them accountable, practise business dealing, their professional standard is determined by the level of investment, and they are already skilled (before joining the job). Legal practitioners consider themselves fully accountable, have professional deal, their professional standard is determined by laws, they are already skilled (before joining the job). Medicos claim they are fully accountable, have human deal, the medical standard determines their professional standard and they are already skilled (before joining the job). Auditors consider themselves to be accountable, have business deal, maintain professional standard and are skilled. Private business people think they are accountable, have business deal, pursue professional standard in accordance with the trade convention and consider themselves skilled (although they are not required to have skills to join the job).

4. 1 Accountability in Media

The mass media particularly the newspapers, television and radio constitute the main arena in which journalists play key role as members of the civil society. According to the Economic Survey, by mid-April, the total number of newspaper registered in various districts of the Kingdom reached 2,870. Among these are 193 dailies, 9 half-weeklies, 1,008 weeklies, 220 bi-weeklies, 787 monthlies, 205 bi-monthlies, 334 quarterlies, 15 four-monthlies, 49 half-yearlies, and 50 yearlies.

Television broadcast, which started in Nepal in 1985, has recently been switched over to satellite transmission through Sagarmatha Satellite Earth Station ensuring its viewability throughout the country and abroad. NTV is currently on air for 16.30 hours every day through its three studios, one regional programme production and broadcasting centers in Kohalpur and 11 transmitting centers. A metro channel is in pipeline. Some 165 cable operators have obtained licenses to operate Cable Television transmission.

Radio Nepal, established in 1950 A.D., commands countrywide coverage and is considered the most popular media in Nepal. It has, since 1995, been broadcasting songs and

music in national language through its medium wave transmission centers established in all five development regions of the country. FM transmission is new sensation and out of 20 private companies licensed to operate radio centers through FM system, 15 agencies have already started their operations.

Journalists working for the media mentioned above function under the umbrella of the professional organization Federation of Nepali Journalists, which stresses code of conduct and has devised one jointly with Nepal Press Council. (Source: Patrakar Achar Samhita 2055B.S.(1998))The code is not observed seriously and the Federation has no means to make professionals to adhere to it or quit.

During discussion and interview with the public and media persons, it is revealed that the media have miles to cover to ensure credibility. The following findings are notable:

People's perception

The Focus Group Discussion on people's perception on accountability among media persons revealed that they should do much to gain credibility. Findings of discussion have been summarized below:

- ? Accountability is talked but not practiced effectively.
- ? There is a growing trend in the media to be conscious of being accountable to the public.
- ? The Code of Conduct is not binding and is not seriously visible in media behaviour.
- ? Some have taken the Code as the responsibility of media institutions or government and not that of professionals.
- ? The media persons should discipline themselves accepting the Code not as direction from some body but as a friendly guide.
- ? The Nepali media have over time proved influential in disseminating information and serving as a watchdog. But the professionals have much to improve to guarantee accuracy, balance and credibility of news.

Media's perception

Media professionals have their own version on accountability. They are as follows:

- ? Since the media do not have financial independence, they have not been able to be as accountable as they would like to.
- ? The political tilt or affiliation that the media directly or indirectly seek has not allowed the Fourth Estate to be responsible.
- ? There is dearth of skilled hand in the media sector.
- ? The Code of Conduct as approved by Nepal Press Council and Federation of Nepali journalists should be honoured in practice.
- ? Because the Government is also a player in the field and runs both electronic and print media for its defense, the atmosphere has been spoiled so badly that fair competitive market does not exist.
- ? However, the media have been effective pressure group for the government.

The Code of Conduct

The Code of Conduct 1998 for journalists has been in operation following formal adoption of the same by Nepal Press Council and Federation of Nepali Journalists. Both institutions thought it wise to amalgamate the previous codes and bring out a unified code for media persons. The Federation had previously followed its Code of Conduct 2050 B.S. (1993) mentioned in Birgunj Declaration. NPC had followed the Code of Conduct 2049 B.S.(1992).

Since the two documents aimed at the same target and had different provisions, journalists found them rather confusing. They were, therefore, taken up for unification by a Task Force of the Federation and the Discipline and Complaint sub-committee of NPC. The present Code-the integrated one - is the result of their exercise which was later adopted by the Council in 2055 B.S.(1998)

To make the press world and journalism sector responsible and dignified and to unite journalists for ensuring free flow of information as guaranteed by the Constitution of Nepal 1990 through preservation of democratic ideals, the two top media bodies decided to implement the Code of Conduct.

The code refers to journalist as anybody within the definition of Nepal Press Council Act 2048 B.S.(1992) and Federation of Nepali Journalists 2050 B.S.(1993) and working journalist. The code applies to all Nepali journalists operating in the country.

In Section 2 of the code is mentioned: Journalists should not do the following:

1. Journalists should present themselves honestly and impartially on behalf of truth and justice in matters of publication and broadcasting of news and views. No action should be undertaken against this principle.
2. Since the Kingdom of Nepal is a common garden of all multi-lingual, multi-religious, and multi-ethnic Nepalis, journalists should not directly or indirectly publish and broadcast news against this value.
3. Journalists should neither twist the sense and reality of news nor distort them and should not treat advertisement as news.
4. Journalists should not publish and broadcast news that is of the nature of breaking the privacy of individual citizens and assassinating their characters.
5. Journalists should not divulge the source of news.
6. Journalism should not be used as a means for fulfillment of selfish interest. One should not have intention of making unfair financial gain or having other benefits through the means of news.
7. Journalists should not publish and broadcast the materials that affect social structure, go against professional norms, are sensational and devastating in the form of news or views.

The code has also the provision for taking action against those who go or act against it.

If complaint is lodged against any journalist at the Nepal Press Council within fifteen days and with proof that the person has defied the code, NPC will summon the person to be present within seven days excluding transport time (road –time) and allow 7 days notice for defense. However, NPC could receive complaint any time should it be convinced that the complainant could not lodge complain because of reasons not under the person's control.

Following the presentation of written defense by the accused, Nepal Press Council will organize a discussion for settling the issue. Decision is taken on the basis of majority opinion.

As for the provision for implementation, the code mentions: if it is found that someone has committed the offence as mentioned in Section 2, NPC will take action in the following way:

1. It will make the media publish the complaint as a release and subsequently make it seek excuse for the offence or issue suitable correction through news.
2. If the Clause one provision is neglected and no excuse is sought or no correction is printed subsequently, the press pass of the accused would be recommended for suspension by the authority concerned.
3. Should the Clause 2 be neglected, NPC would oust the media from evaluation process.

4. In case Clause 3 is also neglected and no correction is published in accordance with Clause 1, NPC will recommend that all government facilities given to the media be suspended.
5. In cases in which Clause 4 also continues to be neglected, NPC would not allow the accused to have assistance from Welfare Fund.
6. Irrespective of whatever is mentioned in the above Clauses, if the complainant and defendant agree to compromise through a written statement, the dispute will be declared settled automatically then and there.

Accountability in practice- journalists

Indicators	Provision	Convention	Practice
entry	code	institutional style	not applicable
promotion	not clear	consideration of boss	
ethical consideration	specific	mixed	not applicable
right to membership	code	not applicable	under practice
right to practice	specific	always open	not obstructed
accountable to	general public	institution	practiced
qualification	code	consideration	not practiced
dismissal	code	pleasure of boss	practiced in whim
awareness	clear	specific	not visible
monitoring	code	institution	not practised

Accountability indicators: The above Table summarizes the accountability indicators in 10 components (on the basis of the study of the profession and professionals) such as entry into profession, promotion, ethical consideration, right to membership, right to practice profession, specific accountability, qualification, dismissal, awareness, monitoring and present them against the provision, convention and practice of profession. The way the indicators are handled by the provision, convention and practice have also been summarized in words.

The entry into the profession is determined by code but it is not practiced. The conventional institutional style plays key role in it. As for promotion, the provision is not clear, but the consideration of boss is decisive. There is specific provision for ethical consideration in the code, but convention rather than the code is considered in practice. The right to membership in the organization is strictly followed. The journalists are accountable to the general public and also the institution. It is practiced. The code mentions about the qualification but it is not practiced. Conventional consideration rules prominently in this regard. Dismissal is addressed by the code but it is governed by the pleasure of the boss. Awareness of accountability is specifically pointed out but it is not visible in practice. The code emphasizes monitoring in its provision but it is not practiced. The institution supervises it in its pleasure.

Comparison

Experts often compare the journalists' code with that being followed abroad. The mostly mentioned in this respect is that of the American Society of Newspaper Editors. The Preamble of the same states: "The First Amendment, protecting freedom of expression from abridgment by any law, guarantees to the people through their press a constitution right, and thereby places on newspaper people a particular responsibility.

Thus journalism demands of its practitioners not only industry and knowledge but also the pursuit of a standard of integrity proportionate to the journalist's singular obligation. To this end the American society of Newspaper Editors sets forth this Statement of Principles as a standard encouraging the highest ethical and professional performance."

Under Article I: Responsibility is mentioned "The primary purpose of gathering and distributing news and opinion is to serve the general welfare by informing the people and enabling them to make judgments on the issues of the time. Newspapermen and women who abuse the power of their professional role for selfish motives or unworthy purposes are faithless to that public trust.

The American press was made free not just to inform or just to serve as a forum for debate but also to bring an independent scrutiny to bear on the forces of power in the society, including the conduct of official power at all levels of government."

Freedom of the Press is mentioned in Article II. According to this provision, "Freedom of the press belongs to the people. It must be defended against encroachment or assault from any quarter, public or private.

Journalists must be constantly alert to see that the public's business is conducted in public. They must be vigilant against all who would exploit the press for selfish purposes."

Independence is the theme under Article III. Journalists, according to this Article, must avoid impropriety and the appearance of impropriety as well as any conflict of interest or the appearance of conflict. They should neither accept anything nor pursue any activity that might compromise or seem to compromise their integrity.

Article IV provides for Truth and Accuracy. Good faith with the reader is the foundation of good journalism. Every effort must be made to assure that the news content is accurate, free from bias and in context, and that all sides are presented fairly. Editorials, analytical articles, and commentary should be held to the same standards of accuracy with respect to facts as news reports.

Significant errors of fact, as well as errors of omission, should be corrected promptly and prominently.

Impartiality constitutes Article V. To be impartial does not require the press to be unquestioning or to refrain from editorial expression. Sound practice, however, demands a clear distinction for the reader between news reports and opinion. Articles that contain opinion or personal interpretation should be clearly identified.

Fair Play under Article VI mentions: Journalists should respect the rights of people involved in the news, observe the common standards of decency and stand accountable to the public for the fairness and accuracy of their news reports.

Persons publicly accused should be given the earliest opportunity to respond.

Pledges of confidentiality to news sources must be honoured at all costs, and therefore should not be given lightly. Unless there is clear and pressing need to maintain confidences, sources of information should be identified.

These principles are intended to preserve, protect, and strengthen the bond of trust and respect between American journalists and the American people, a bond that is essential to sustain the grant of freedom entrusted to both by the nation's founders.

4.2 Accountability in Engineering Profession

Engineers in Nepal have been working for the professional goal under Nepal Engineers' Association for the last 33 years. NEA, first established in 2025 B.S.(1968) in accordance with the 2024 B.S.(1967) statute amended the Association's constitution for the third time in 2051

B.S.(1994). (Source: Nepal Engineers Association's Third Amended constitution 2051 B.S.(1994). The Association aims at:

- a) helping appropriate development and mobilization of Engineering Sciences and Technology in Nepal.
- b) promoting mutual contact, good will and cooperation among Nepali engineers and preserving their interest and right.
- c) utilizing up to the maximum point the engineering person-power available for the national development activities and ending dependence on foreigners in this respect.
- d) contributing to the pursuit of ideals of the engineering profession by promoting the same among the engineers and expanding it.
- e) developing contact, mutual cooperation, and goodwill friendship with international engineering associations.

People's perception

People generally regard the profession of Engineering as a highly skilled profession, consider it as a lucrative one and consider engineers more commercially minded than accountable. The views expressed at the Focus Group Discussion are summarized below:

- ? Engineers are qualified and skilled. But their expertise has not been translated into quality of their works and does not display accountability.
- ? They appear to have been influenced more by contractors than their professional ethics.
- ? Although there is universal ethics for them, they do not follow them.
- ? Engineers have played the role of bureaucrats and administrators and not acted as builders and creative artists.
- ? They have been instruments of misutilization of public fund.
- ? Engineers have made themselves commercialized; they have neglected their engineering role. They have failed to define their role in development works.

Engineers' perception

- ? Engineers are builders who give life and shape to scientists' vision.
- ? Nepal has a tradition of having brilliant students join engineering for studies and become engineers. They are the "cream" of the society. But the same has not been seen in practical fields. It is a case of poor performance by gifted people.
- ? New generation engineers feel the shock of unemployment, suffer from inexperience, guidelessness, and escapism. Old generation engineers, although highly experienced, have not been able to guide the new ones.
- ? Nepali engineers have contributed most to the development of sectors like road, drinking water, irrigation, building, telecommunication, and electricity. Neither the government nor the general people have appreciated it. Instead, they think they are the sectors through which engineers cheat the people. It is engineers' weakness not to be able to have proper appreciation from the people for their job.
- ? Engineers have not been understood well by government in Nepal. Their importance and inevitability in national development process has not been appreciated.
- ? A sad commentary: in a country where Lord Bishwakarma is worshipped, engineers are not given due respect.

- ? Government promotes not the engineers but the people who flatter, slavishly serve or become instrument for making the bureaucrats rich. This has made genuine professional engineers frustrated.
- ? Donors' conditions, guidelines and regulations have not allowed Nepali engineers practise their original skill and innovative talent in development works.
- ? Nepali engineers have been compelled to work just as captain of labourers, and the medium of getting bills endorsed and been made to back up the ill designed works prepared by foreign consultants.

Accountability in practice- Engineers

Indicators	Provision	Convention	Practice
entry	government rules	institutional style	practiced
promotion	not clear	consideration of bosss	practiced under influence
ethical consideration	Association-constitution	mixed	not applicable
right to membership	constitution	not applicable	under practice
right to practice	not specific	always open	not obstructed
accountable to	government	institution	practiced
qualification	constitution/government regulation	not applicable	practiced
dismissal	constitution/government regulations	pleasure of boss	practiced in whim
awareness	clear	specific	not visible
monitoring	Association	institution	not practiced

The above Table, worked out on the basis of study of the profession and professionals, presents a scenario of how accountability is practiced in the profession. The ten components that help enhance accountability have been presented in the column under indicators. Their position in the profession has been specifically mentioned in the column under provision. What sort of conventional practice is in use in regard to the components in the third column under Convention. The state of practice of the indicators has been mentioned in the fourth column.

Comparison

At the international level engineers are learnt to have recognized that the practice of engineering has a direct and vital influence on the quality of life for all people. Therefore, engineers should exhibit high standards of competency, honesty, and impartiality, be fair and equitable and accept a personal responsibility for adherence to applicable laws, the protection of the public health, and maintenance of safety in their professional actions and behaviour. These principles govern professional conduct in serving the interests of the public, clients, employers, colleagues, and the profession.

The engineer is considered to be a professional dedicated to improving competence, service, fairness, and the exercise of well-founded judgment in the practice of engineering for the public, employers, and clients with fundamental concern for the public health and safety in the pursuit of this practice.

Some canons of professional conduct are emphasized. Engineers offer services in the areas of their competence and experience, affording full disclosure of their qualifications.

They consider the consequences of their work and societal issues pertinent to it and seek to extend public understanding of those relationships.

Engineers are honest, truthful, and fair in presenting information and in making public statements reflecting on professional matters and their professional role. Engineers engage in professional relationships without bias because of race, religion, sex, age, national origin, or handicap. They act in professional matters for each employer or client as faithful agents or trustees, disclosing nothing of a proprietary nature concerning the business affairs or technical processes of any present or former client or employer without specific consent.

Engineers disclose to affected parties known or potential conflicts of interest or other circumstances which might influence – or appear to influence- judgment or impair the fairness or quality of their performance. Engineers are responsible for enhancing their professional competence throughout their careers and for encouraging similar actions by their colleagues. Engineers accept responsibility for their actions; seek and acknowledge criticism of their work; offer honest criticism of the work of others; properly credit the contributions of others; and do not accept credit for work not theirs.

Engineers perceiving a consequence of their professional duties to adversely affect the present or future public health and safety shall formally advise their employers or clients and, if warranted, consider further disclosure. They act in accordance with all applicable laws and the rules of conduct, and lend support to other who strive to do likewise.

Engineering employment and practice : Ethics

Engineering affects the quality of life for every person in the world. In order to carry out the duties and responsibilities of their profession, engineers must be honest, fair, impartial, and dedicated to public health and safety. Engineers are called upon to use their knowledge and abilities in an ever increasing number of traditional and nontraditional forums. To meet this growing challenge, standards of conduct are implicit in protecting both the engineer and the public.

Engineers in Nepal seem to have recognized the importance of such guidelines for professional conduct and continue to promote their adoption among member societies, the general scientific and engineering community and within the various levels of government.

4.3 Accountability in the profession of Legal Practitioners

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.

Article 84 of the Constitution makes provision for courts to exercise powers related to justice while Article 86 mentions " The Supreme Court shall be the highest court in the judicial hierarchy. All other courts and judicial institutions of Nepal, other than the Military Court, shall be under the Supreme Court." The country has three tiers courts: a) Supreme Court, b) Appellate Court; and c) District court.

Provision has been made for a Judicial Council to recommend and advise on matters related to the appointment of, transfer of, disciplinary action against, and dismissal of Judges and other issues concerning judicial administration. The Judicial Service Commission looks after appointment, transfer, or promotion of Gazetted Officers of Judicial Service or taking

departmental action concerning such officer in accordance with law. The government has to act on the recommendation of the JSC.

Public perception

- ? courts are independent only in theory; in practice they are either guided by power or money or the influence of both.
- ? courts have interpreted the Constitution and the laws inconsistently.
- ? not enough consideration for public interest litigation.
- ? network of corruption exists and this obstructs delivery of justice; because of this the judicial system has been spoiled with employees and proceedings being helpless.
- ? tedious and intolerable delay in delivery of justice. Corruption has spoiled judicial employees, judicial proceedings and the delivery of judgments.
- ? political motivation behind appointment of judges and their promotion has made professionals frustrated.
- ? the justice system is more inefficient, biased and expensive; inaccessible to ordinary people.

Courts of law are also the places where irregularities and corruption take place very frequently. Some of the ways are mentioned below:

- ? taking bribe in giving dates for being present in the court or presentation of the case before the judge,
- ? accepting financial gift for getting the complaint registered,
- ? favouring one side during on-the-spot enquiry,
- ? transferring the goods declared as income of the court,
- ? delaying justice even after completion of legal process,
- ? overvaluing or undervaluing land while accepting the same as collateral,
- ? interpreting the law to benefit one specific side,
- ? allocating cases to the prearranged bench for prearranged judgment that benefits one specific side,
- ? developing nexus with lawyers or others and giving judgment to suit their cause,
- ? threatening with optimum punishment or fine,
- ? allowing vested interest group to use the court for their benefit.

Judges' perception

- ? the judicial independence in Nepal is guaranteed in principles and practice.
- ? the courts are free from corruption; if some cases of corruption are found, they are dealt with in accordance with law.
- ? it is because of the judges that the country has the rule of law.
- ? the Supreme Court has played a very important role in delivering justice to citizens in the country.
- ? courts play the role of judicial activism when it is necessary.
- ? delay in delivery of justice is not the result of court's negligence, but the court's attempt to make sure that the guilty is punished and not the innocent.

- ? criticism of courts and judges, as mentioned in the people's perception, is not founded.

There are altogether 237 judges working in various courts of Nepal. Of them five are female.

A. The Code of Conduct for Judges -2055 B.S. (1998)

Source: Sarbochha Adalat Bulletin Volume 7, Number 8 (Supreme Court Bulletin)

The Judge

1. should not on individual capacity or on behalf of the post held, do or allow others to do or motivate people to do anything that may affect the credibility or dignity of the court.
2. should not take charge of settling disputes of the companies or institutions, of which he or she or members of the family has share-ownership.
3. should not engage in procuring or selling shares or debentures or undertake mortgage – transactions.
4. should not directly or indirectly, individually or jointly or in group, be engaged in trade or similar activities.
5. should not receive or accept any gift, donation, fund, presentation, from individuals or institutions in the manner that affects the performance of the post –related duty. The judge should not engage in the task of raising fund, donation or cooperation for any use in any way.
6. should not take facilities or concessions or attempt to allow the same to others by either interpreting provisions or arguing that they are inevitable for services, or essential pre-conditions for services or unavoidable infra structure except for those that are clearly allowed by law and decision of the government.
7. should not allow any members of the family –mother, father, husband, wife, son, daughter, daughter-in-law, son-in-law, brother, sister- to be present before him or her or in the court or permit them to be attached in any way to the case on which he or she is to give verdict.
8. should not take up the case which has been undertaken by any lawyer who is inside family relation.
9. should not misuse any facilities available for use legally due to the post or allow others to misuse them.
10. should not give interview through mass media or express opinion or display reaction in relation to any case that is under the consideration of the court or that has already received verdict from the court with an intention to challenge the credibility, dignity and honour of the court.
11. should not express opinion or reaction on any subject that is under the consideration of court, topics of political nature or controversial themes of public concern that may be brought before court for settling legal question.
12. should not accept or receive or allow to accept or receive hospitality, donation, gift or present from persons or officials who have cases in the court-consideration or have cases which might be presented before court (except for from those who are members of the family or close relative or close friends).
13. should not hold any other executive post of any institution that may have impact on the function of the post held or offer candidature for the same or participate in voting for the same, except for those that are related directly to law and justice.
14. should not have transactions or allow to have transactions with persons who have concern in the case.
15. should not give verdict with a sense of pleasing persons, bias, influence, envy or revenge.

16. The judge should always be ready to uphold the freedom and impartiality of the court. The judge should always behave well with the judge.
17. The judge should present before the secretariat of the Judicial Council the report of property –movable or immovable assets- along with their sources owned by self or members of the family. The individuals appointed to the post of judicial services should do the same from the date of appointment and the present judges should do so in 35 days following the implementation of this code of conduct. The report should be updated regularly in two years.
18. The judge should always be alert in not allowing anything that may insult the honour and glory of the court.
19. The judge should be dutiful committed to the belief that the honour, glory and prestige of the court and those of the judge are interlinked.

The judge is compelled to observe the Code of Conduct in accordance with the rules of Nyaya Prishad Niyamabali 2056 (Judicial Council Rules 1999).

Accountability in practice- judges

Indicators	Provision	Convention	Practice
entry	code/regulations		practiced
promotion	clear		under influence
ethical consideration	specific	mixed	applicable to some extent
right to membership			Judicial Council Rules 1999 should be observed
right to practice			Judicial Council Rules should be observed
accountable to	court	institution	practiced
qualification	code/regulation		practiced
dismissal	code/regulation	pleasure of boss	practiced in some cases
awareness	clear	specific	not visible
monitoring	code/court	institution	not practiced

The above Table, worked out on the basis of the study of the profession and professionals, clarifies how the components that help accountability are taken and practiced. The entry code and regulations are practiced but the promotion can be earned through influence not merit despite clear provision for the same in the regulations or code. Regarding ethical consideration, the provision is specific about do's and don'ts. The convention on this is mixed and the professionals regard ethics to some extent as they do their job. Since the judges have to observe the code of conduct in accordance with the rules of Judicial Council Rules 1999, the right to membership and right to practice are governed by the same. The accountability is specified to the court and institution and this is practiced. So are the issues of qualification and dismissal. The latter has, however, been found to be influenced by the pleasure of the boss. The provision and convention on awareness of accountability are clear and specific but the same is not visible in job. Although there is provision for monitoring accountability by the code/court or institution, it is not practiced.

B. Accountability for Legal Practitioners

Lawyers in Nepal practise their profession in the country in an independent way. Nepal Legal Practitioners' Council offers a broad umbrella for them to work professionally.

People's perception

- ? Lawyers are hard working but demonstrate visibly commercial mind-set.
- ? They have over the years evinced professional quality in handling cases.
- ? Since they are not accessible for the ordinary citizens, the people who need legal counsel but cannot pay are in dilemma.
- ? They are not interested in issues of public litigation.
- ? They do not usually provide sound counseling to clients.
- ? They are not highly accountable.

Lawyers' perception

- ? Lawyers are accountable.
- ? They work for money, but this is not say that they have commercial mind-set.
- ? The government has not done enough to promote the lawyers' profession.
- ? The Code of Conduct approved by Nepal Legal Practitioners' Council is sincerely adhered to.
- ? Professionalism among legal practitioners has been steadily growing, but there is much to do in this respect.

Nepal Kanoon Byabasayi Parishad (Nepal Legal Practitioners' Council) has made provision for enforcing the Code of Conduct for Lawyers.(Source:Nepal Legal

Practitioners' Council, Act 2050 B.S. (1993))

Various conditions laid in the code are mentioned below.

All legal practitioners should observe the following professional rules compulsorily:

- a) Legal practitioners should not do anything that goes against the fundamental principles of ethics.
- b) should not motivate client to initiate false cases
- c) should not create cases for troubling somebody or taking revenge against some person.
- d) should not engage in non-cooperation to court directly or indirectly in the legal process of the case.
- e) should not misuse or allow to misuse the legal procedure.
- f) should not prevent client from giving true statement or concluding such statement.
- g) should not indulge in misinformation campaign to develop hatred or humiliation towards court or justice or legal profession in the context of legal administration or procedure.
- h) should not withdraw from a case due to busy schedule or some inability without allowing enough time for another legal practitioner to take up the case.
- i) should not waste or consume the amount of money of associations or organizations.

- j) should not break disciplinary code such as being present in the court on time, being attired properly in black coat, behaving respectfully and well with the bench and legal practitioners of the other side, refraining from mutual accusation, not nourishing mal-intention, having decent treatment with court officials, speaking politely and properly in due time.
- k) should not knowingly seek to use the redundant convention or laws or other legal instruments rendered null and void earlier as support for making the case for benefiting one's own client.
- l) should not present the fact not mentioned in the file-document at the pleading knowingly.
- m) should not take up the case as a legal practitioner in cases involving written documents in which the legal practitioner is also a witness.
- n) should not break the secrecy made available by the plaintiff.
- o) should not indulge in slogan, pamphlet, news publication, advertisement and letter for professional propaganda.
- p) should not undertake displaying of big signboard, visiting cards or mentioning earlier position or positions not related to legal practice. However, the restriction does not apply to description of specialization or sector of special qualification or experience in those written documents.
- q) should not accept cases for pleading against percentage share with client or on contract or bidding.
- r) should not be present in the court intoxicated or in drugged state.
- s) should not determine one's remuneration on the basis of win or defeat in the case.
- t) should not misreport the Council when asked to furnish details.
- u) should not attest any draft prepared by people other than the legal practitioner or writer of one's own chamber or the person under one's own supervision.
- v) should not appoint agents to get cases or reward any one with commission for getting one cases.
- w) should not act as broker in handing over the moveable or immovable property.
- x) should not draft documents for both plaintiff and defendant in one case and should not represent both in pleading and should not allow one's own staff or writers to do the same in one case knowingly.
- y) should not use documents given by client for creating other documents to benefit oneself and to the disadvantage of the client.
- z) should not damage or spoil or invalidate the true copy of documents of plaintiff for benefiting the defendant.
- aa) should not make available any document or proof of plaintiff to the defendant
- bb) should not indulge in corruption or allow others to have corruption.
- cc) should not indulge in crime leading to ethical humiliation.

The senior advocate should observe the following in addition to the above:

- a) should not be present in the court for pleading without engaging professionally any other lawyer.
- b) should not be generally present in administration offices for pleading.

Punishment

1. If any legal practitioner acts against the provisions mentioned in Section 1-a to u and Section II, warning will first be issued to the person concerned.

2. If any legal practitioner is found to act against Section I –v and w or has been penalized with first warning, the certificate will be suspended for a given period.
3. If any legal practitioner breaks rules mentioned in Section I-x-cc, or indulges in acts against the code following first punishment of certificate suspension, the legal practitioner's certificate will be cancelled.

The Code of Conduct for Legal Practitioners has been mentioned as a main component of the Council's introductory literature which has, among others, provisions for organization structure, scope, disciplinary committee, examination committee, written examination, oral examination and training.

Accountability in practice- lawyers

Indicators	Provision	Convention	Practice
entry	Code	institutional style	applicable
promotion	not clear		
ethical consideration	specific	mixed	not applicable
right to membership	Code	not applicable	under practice
right to practice	specific	not always open	obstructed in some cases
accountable to	client	institution	practiced
qualification	Code	consideration	practiced
dismissal	Code		
awareness	Clear	specific	visible
monitoring	Code	institution	not practised

The above Table is a summary of what has been found, during the study of the profession and professionals, in the area of accountability of legal practitioners. The entry in profession is governed by code and institutional style while there is no specific word on promotion. Ethical consideration has been specified but the convention in this regard is mixed. It is, therefore, not practiced. Regarding membership, the code mentions specifically and convention does not have any say in it. The right to practice is ensured by the provision. The Convention is not always open for this. In some cases the right is obstructed. The accountability is well targeted and practiced. The qualification and dismissal are also specified in the code. So is awareness of accountability which also visible. But monitoring, despite being provided for, is not practiced.

Comparison

Nepal's judicial system could, in principle, be compared to any democratic country's judiciary. It has not lagged behind the systems obtaining in other countries where rule of law is practiced. However, there are some differences in practice. The country's courts are conscious of it and they are trying to improve in a serious way.

4.4 Accountability in Medical Profession

Doctors' profession is regarded highly and given a very high status in Nepal. It has still been the profession in which only the brilliant among students usually enter. The doctors' high profile protocol could be sensed easily when viewed against the backdrop of the health service scenario in the country.

Until 1999-2000, there were 83 hospitals, 13 health centers, 711 health posts, 275 Ayurvedic hospitals, 3,179 sub-health posts and 160 primary health centers in the country. Likewise there are 5,190 hospital beds, 1,259 doctors (excluding private doctors and doctors working in Tribhuvan University Teaching Hospital), 4,655 nurses, 211 Kabiraj (senior Ayurvedic physicians), 210 Vaidyas, and 5,295 health assistants.

People's perception

- ? doctors have commercialized their profession.
- ? private clinics and nursing homes do not issue receipts against payment.
- ? doctors make the diagnosis process highly expensive; they demand unnecessary check – ups.
- ? doctors are employed by public hospitals, but they serve only in their private clinics.
- ? because of doctors' commercial mind-set, the poor cannot get adequate medical service; it is a great irony in the country for citizens to continue suffering from the disease for which the treatment is guaranteed.
- ? diagnosis is not correct because of doctors' negligence.
- ? doctors are not research-minded; they do not focus on service to the patients.
- ? they seek to serve the medicine suppliers rather than the patients.
- ? medical service in the country is for doctors, not for the patients.
- ? the seriously handicapped, particularly those incapable because of physical and mental retardation do not receive proper attention; they are left in the mercy of God.
- ? doctors do not like to go to serve in remote rural areas.
- ? the government has a flawed health policy that rewards not the professional medico but the medicos who please their bosses administratively.

Medical care institutions such as hospitals, nursing homes and clinics are also known for some irregularities that ultimately affect the people in general.

- ? making patients undergo unnecessary medical check-ups,
- ? developing nexus with medicine suppliers and prescribing unnecessary medicines,
- ? delaying diagnosis,
- ? not referring patients to appropriate clinics in time,
- ? indirectly selling medicines at high price,
- ? playing up with medicines scarcity,
- ? not giving receipts to patients who pay different rates,
- ? making medical care centers as commercial centers and charging excessively high rates.

Doctors' perception

- ? doctors are serving the patients and hospitals sincerely.
- ? the weakness of the administration and management of nursing homes and clinics should not be construed as weakness of the doctors.
- ? doctors are focused on service and their duty and try their best to have quick, cheap and reliable diagnosis.
- ? there is no incentive to go to rural areas; there is danger that the medical knowledge and skill acquired by doctors through long years of education, training and experience will be forgotten because of unavailability of equipment and appropriate resources and laboratory facilities in the remote village areas.

- ? the government does not pursue policy suitable for medicos and public health.
- ? doctors do not indulge in irregular practices.

Nepal Health Research Council (NHRC) has in 1996 brought out NHRC's Ethical Guidelines for Research proposal reviewers, ethical committee members, health and medical researchers, health professionals and students of medical and health sciences. Adopted by NHRC in 1995, the guidelines, among other things, point out general ethical principles and obligation.

Nepal's context and medical professionals' obligation have also been discussed in the guidelines. Stating that Nepal is a signatory of most of the International Declarations, Covenants and conventions on human rights, Civil and Political Rights with their Optional Protocols and on the elimination of discrimination and torture or cruel, inhuman or degrading treatment and punishment, the guidelines point out: this includes a clause, 'In particular, no one shall be subjected without his free consent to medical or scientific experimentation'. As the first country in the South Asia Region and among many countries in the world to have signed some of the important International covenants and Conventions, it will be, therefore, inappropriate to look at or to follow other models to develop ethical guidelines for researchers in Nepal.

According to the Guidelines, ethical questions related to inhuman treatment of animals, particularly of laboratory animals and questions related to the environment and to better understanding of human rights have made everyone of us think beyond the "do no harm" type of normative ethic contributed by Charaka and Susruta Shamhita and stressed in the Hippocratic oath, and more recently to the Bio-ethics of the 1970s.

The Guidelines refer specifically to the role of physicians or health professionals or experts or scientists. "Many a time our human subjects, including our patients or their relatives, delegate their right to make a decision on their behalf to us, so as to let us intervene in their conditions. This may include medical intervention, surgical operation, organ separation and organ or tissue transplant under anaesthesia. This gives us a very special obligation to have the highest standard of social responsibility and to exercise these 'delegated rights' by our human subjects- either to execute our expert services or to conduct research involving them."

"We need to update," the Guidelines clearly mention, "our understanding or ethical responsibility with international ethical guidelines adopted by World Medical Assembly (particularly in Helsinki 1964, Tokyo 1975, Venice 1983 and Hong Kong 1989), Council for International Organizations of Medical Sciences (CIOMS), WHO and other Conventions related to human rights, treatment of laboratory animals, and the environment. The environmental factor must be incorporated in any ethical considerations along the line of Beijing and Rio Conferences. Indeed, our planet has the right to be healthy, green, beautiful, respectful and peaceful."

All five basic ethical principles generally pursued by professionals in the medical field have been duly respected by the Guidelines. Mentioned specially in them are:

- ? Respect for persons
- ? Beneficence
- ? Justice
- ? Respect for environment or microcosms including socio-cultural settings
- ? Ethical responsibility in the use of animals for research

Respect for persons

It includes two fundamental ethical considerations: respect for autonomy and protection of persons with impaired or diminished autonomy. The respect for autonomy requires that those who are capable of deliberation about their personal choices should be treated with respect for

their capacity for self-determination. A human's right to self-decision or to exercise his/her self-determination can be asserted only if his/her right to information, right to choose options with full knowledge of risks or benefits, and right to confidentiality are adequately and properly exercised.

Protection of persons with impaired or diminished autonomy (for example, children, disabled, or handicapped or deprived persons) require that those who are dependent or vulnerable or are unable to make independent decision or choice, be afforded security or protection against harm or abuse.

Beneficence

This refers to the ethical responsibility and obligation to maximize the benefits and to avoid or to minimize the harms and wrongs. The following five principles are to be considered:

- a) Observations of normative non-maleficence ('Do no harm') types of ethics. This principle includes the prohibition of restriction or deprivation or withdrawal of intended benefits from the control groups or experimental subjects.
- b) Counselling and provision of adequate information about the research implementation relating to its benefits as well as its risks. The range of available options should be explained and/or demonstrated for the freedom of a person's choice and to be able to make an informed decision (Rights to information and choice). Explanations should be provided about the services that are available to treat or compensate for any side effects, or to compensate for time and productivity lost.
- c) Norms requiring that the risk of research be reasonable in the light of the expected benefits.
- d) Competency of researcher(s) to develop a sound research proposal, to conduct the research, to use the outcomes, and to safeguard the welfare of research subjects.
- e) Strict prohibition of deliberate infliction of harm on persons. This is related to the "Do no harm" principle. Deterrent legal action to compensate and to punish in case of deliberate infliction of harm or of negligence could be enumerated.

Justice

This refers to the ethical obligation to treat each person in accordance with what is morally right or proper to give to each person. For this, the following principles have been suggested:

- i. Distributive justice requires the equitable distribution of both burdens and the benefits of participation in research. Difference in distribution of burdens and benefits are justifiable only if they are based on morally relevant distinctions between persons, like vulnerability, age, susceptibility, or at-risk or pre-disposed conditions. "Vulnerability" refers to a substantial incapacity to protect one's own interests owing to the lack of capacity to give informed consent, lack of alternative means of obtaining medical or health care or expensive necessities, or being a junior or subordinate member of a hierarchical group. Accordingly, special provisions must be made for the protection of the rights and welfare of the vulnerable persons or groups.
- ii. The principle of distributive justice also obligates the researchers not to restrict an experiment on a deprived community, people in developing countries, or prisoners unless such restriction is morally justifiable because the problem
- iii. to be investigated is limited to only in that particular category of the community or country, and such experimentation is intended to solve or to insight into the solution of such problem(s).

Respect for the environment, microcosm or socio-cultural settings

The Helsinki declaration of the World Medical Association stresses the special precautions which are to be exercised in the conduction of research which may affect the environment, and the welfare of the animals used for the research. The word " Environment" includes socio-cultural settings. In view of world movement for the protection of the environment, every researcher should take their moral position on social responsibility very seriously so that :

- a. No damage or degradation of the environment is caused by the implementation of the research, and
- b. Proper and safe disposal of Bio-hazardous waste from laboratory, clinic, field or any other area used for the research should be effectively implemented and supervised.

Ethical responsibility in the use of animals for research

International guiding principles – such as minimizing the use of animals and, where possible, finding other alternatives where use of animal will not be necessary conditions of acquisition according to international norms and practices, proper and safe transportation, suitable hygienic housing which must include strict sanitation, ventilation, air conditioning, 12 hour light exposure alternating with equal hours of darkness each day, good nutrition, veterinary care, records and monitoring systems –should be practiced.

Accountability in practice- medical professionals

Indicators	Provision	Convention	Practice
Entry	code/Nepal Medical Council-regulation		strictly practiced
promotion	not clear	consideration of boss	under influence
ethical consideration	specific	mixed	not visible
right to membership	code	not applicable	under practice
right to practice	specific	not always open	obstructed in some cases
accountable to	patients /institutions	general public	practiced
qualification	code/regulation		practiced
dismissal	code/regulation	pleasure of boss	practiced in pleasure
awareness	clear	specific	visible
monitoring	code/Council Government Association	institution	not practised

The above Table, worked out on the basis of study of the profession and professionals, clarifies how accountability is regarded and practiced in the area. The entry into the profession is specified in the code and strictly practiced. Promotion, however, does not have clarity and is under consideration of boss and under influence, not merit, in practice. Ethical consideration is not visible although there is specific mention of the same in the provision. Convention on this is mixed. Right to membership is under the provision of code and convention has nothing to do with it. The right to practice is governed by the code specifically but the convention is not always open for this. In some cases it is obstructed. The code says the medicos are accountable to

patients and institutions they serve and the convention is that they are responsible to the general public. As for qualification it is specified and practiced but the dismissal is under the pleasure of boss and practiced in pleasure despite specific provisions on this in the code and regulation. Awareness of accountability is clear in the provision and specific in convention and also visible in practice. Monitoring has been specified but not practiced. The convention stresses that it should be done by the institution concerned.

Comparison

The medical ethics in Nepal are, in principles, comparable to those of other countries and international organizations. The study of the World Medical Association International Code of Medical Ethics clearly proves the point. However, the country has to do a lot to bring about improvement in practice.

World Medical Association International Code of Medical Ethics

World Medical Association International Code of Medical Ethics adopted by the 3rd General Assembly of the World Medical Association, London, England, October 1949, and amended by the 22nd World medical assembly Sydney, Australia, August 1968 and the 35th World Medical Assembly, Venice, Italy, October 1983.

Duties of physicians in general

A physician shall always maintain the highest standards of professional conduct.

A physician shall not permit motives of profit to influence the free and independent exercise of professional judgment on behalf of patients.

A physician shall in all types of medical practice, be dedicated to providing competent medical service in full technical and moral independence, with compassion and respect for human dignity.

A physician shall deal honestly with patients and colleagues, and strive to expose those physicians deficient in character or competence, or who engage in fraud or deception.

The following practices are deemed to be unethical conduct:

- a) Self advertising by physicians, unless permitted by the laws of the country and the Code of Ethics of the National Medical Association
- b) Paying or receiving any fee or any other consideration solely to procure the referral of a patient or for prescribing or referring a patient to any source.

A physician shall respect the rights of patients, of colleagues, and of other health professionals and shall safeguard patient confidences.

A physician shall act only in the patients' interest when providing medical care which might have the effect of weakening the physical and mental condition of the patient.

A physician shall use great caution in divulging discoveries or new techniques or treatment through non-professional channels.

A physician shall certify only that which he has personally verified.

Duties of physicians to the sick

A physician shall always bear in mind the obligation of preserving human life.

A physician shall owe his patients complete loyalty and all the resources of his science. Whenever an examination or treatment is beyond the physician's capacity he should summon another physician who has the necessary ability.

A physician shall preserve absolute confidentiality on all he knows about his patient even after the patient has died.

A physician shall give emergency care as a humanitarian duty unless he is assured that others are willing and able to give such care.

Duties of physicians to each other

A physician shall behave towards his colleagues as he would have them behave towards him.

A physician shall not entice patients from his colleagues.

A physician shall observe the principles of the Declaration of Geneva approved by the World Medical Association.

Declaration of Geneva

Adopted by the 2nd General Assembly of the World Medical Association, Geneva, Switzerland, September, 1948 and amended by the 22nd World Medical Assembly, Sydney, Australia, August 1968, and the 35th World Medical Assembly, Venice, Italy, October 1983 and the 46th WMA General Assembly Stockholm, Sweden, September 1994.

At the time of being admitted as a member of the medical profession

I solemnly pledge myself to consecrate my life to the service of humanity;

I will give to my teachers the respect and gratitude which is their due;

I will practice my profession with conscience and dignity;

The health of my patient will be my first consideration;

I will respect the secrets which are confided in me, even after the patient has died.

I will maintain by all the means in my power, the honour and the noble traditions of the medical profession;

My colleagues will be my sisters and brothers;

I will not permit considerations of age, disease, or disability, creed, ethnic origin, gender, nationality, political affiliation, race, sexual orientation, or social standing to intervene between my duty and my patient;

I will maintain the utmost respect for human life from its beginning even under threat and I will not use my medical knowledge contrary to the laws of humanity;

I make these promises solemnly, freely and upon my honor.

Medical ethics consciousness

4.5 Accountability in the profession of Auditors

Auditors/ accountants

Auditors of two categories: Chartered Accountants, and Auditors registered by Auditor General Office are functioning in Nepal at present. The Registered Auditors have been classified into four classes A, B, C, and D depending upon the level of profession, duration, qualification and practical experience in the field of accounting. They function under the umbrella of the All

Nepal Auditors' Association, which has some 300 members. Lekha Parixyak Sangh, a political parallel of all Nepal Auditors Association, is said to exist but little is known about the indicator of its presence.

For professional competence, the Association organizes trainings, at least one in a year, on financial laws at the Institute of Chartered Accountants, which has been established to ensure regulation of the accounting profession in Nepal by an Act of Parliament in 1997.

Accountants in Nepal are, however, appointed and allowed to function in a rather unprofessional manner. In some sectors people do not accept for accountants the persons with no background of commerce education. In most any person can join the job of accountant. The distortion in accounting profession has prevailed to a great extent because of the presence of a great number of unqualified accountants in the profession. The need for a national accounting body of an international standard that could address the problem and regulate the accounting profession has been felt by all concerned. The absence of institutionalization of the accounting profession has been one of the principal impediments to the development of an organized private sector of the economy.

Books of Account are kept well, Balance of Payment is also maintained, the double entry system is also prepared. But accountants do not know how to make them as scientific as scientific accounting requires. Moreover, they do not have basic skills and professional skills and do not know the financial rules such as VAT and financial rules. This results in individual variation and un-uniform type of accounting practices.

The Institute of Chartered Accountants of Nepal (ICAN) has been doing substantial service in this regard with main objectives of playing the role of regulatory body towards promoting accounting and accounting profession in the country in accordance with its codes of conduct, and enhancing social recognition and confidence over accounting profession by increasing awareness on the importance of accounting, social responsibility of members and accounting professionals.

Other ICAN –objectives are : to develop, protect and promote accounting profession by raising awareness of accounting professionals and members regarding accounting profession and accounts; and to develop the profession in line with international quality and standard in respect of registration of professional members, specification of professional expertise and qualifications of accounting professional and examinations system in order to enhance respectability and credibility of the profession.

The Code of conduct for auditors stress: no member can take business from other without any reason; and no fee can be reduced, no leg pulling can be tolerated.

The performance of Registered Auditors and Chartered Accountants is different. But this has not been appreciated well by private sector business people.

There is a trend among business houses to take one person who can act as three in one: auditor, lawyer and tax consultant. This indirectly hampers the growth of healthy accounting system.

Tax consultancy draws more than auditing. This indirectly affects the professional growth of auditing.

Income tax is actually taken as turnover tax. Financial irregularities begin from the books of account, disclosing turnover etc. Audit alone cannot change it.

People's perception

- ? auditors are manipulators
- ? they are not accountable; they manufacture an artificial book of accounts for their clients.

- ? they are skilled and knowledgeable but do not use them in profession; their sole aim is to please clients.
- ? auditors are commercialized.
- ? their job is to clean up the filth in books that management leaves out in transactions.
- ? they are regularly bribed.
- ? they also teach their private sector clients how to cheat the government on income tax, excise and other types of revenue.
- ? there is an unknown nexus for regularizing irregular deal between auditors, accountant and management.
- ? auditors take advantage of the lack of knowledge of management.

Auditors perception

- ? auditors are accountable; they seek to make the books of account reliable and dependable;
- ? auditors are usually blamed for the wrongs or blunders made by accountant.
- ? auditors observe the code of conduct; they are loyal to their Association and ICAN.
- ? the accountants should be qualified and trained to improve accounting and make it scientific.
- ? each year a new budget and a new set of financial regulations are announced, the accountants should be trained for producing satisfactory accounting system; lack of such training has resulted in the mess of accounting in various firms in Nepal.
- ? the ICAN spirit and Association-principles should be promoted.

Accountability in practice- auditors

Indicators	Provision	Convention	Practice
Entry	code/regulation	institutional style	strictly applied
promotion	not clear	consideration of boss	influence
ethical consideration	specific	mixed	not applicable
right to membership	constitution	not applicable	under practice
right to practice	specific	not always open	not obstructed
accountable to	client	institution	practiced
qualification	constitution		practiced strictly
dismissal	constitution	pleasure of boss	practiced in whim
awareness	clear	specific	not visible
monitoring	constitution	institution	not practiced

The above Table, worked out on the basis of study of the profession and professionals, first sheds light on the indicators that help enhance accountability. They are then viewed from the perspective of provision, convention and practice. This shows: auditors' entry into profession is specified and strictly applied as per code and regulation. Promotion, however, is dependent on consideration of boss and influence. Ethical consideration is specific but is not practiced. The convention about it is mixed. The right to membership is specified by the constitution, convention does not play any role in it. It is practiced. The right to practice is also specified. But convention is not always open to it. It is not obstructed. Accountability to client and institution is specific and practiced. Similarly qualification is specified and practiced. But dismissal, although

specified in the constitution is under consideration of boss or whim of the same. Awareness of accountability is clear and specific but not visible. Monitoring has to be done as per the provisions of constitution or by institution but not practiced.

Accountability in practice- accountants

Indicators	Provision	Convention	Practice
Entry		institutional style	
promotion		consideration of bosses	
ethical consideration		depends on boss	
right to membership		employer	
right to practice		employer/rules	employer's convenience
accountable to	boss		
qualification	not fixed	consideration	
dismissal	boss-decision	pleasure of boss	practiced in whim
awareness			not visible
monitoring		employer	

The above Table depicts accountants have a long way to go for making themselves professionally accountable. Most of the decisions on their entry into profession, promotion, ethical consideration, right to membership, right to practice, accountability, qualification, dismissal, awareness and monitoring are taken by the boss concerned or under convention. Their right to practice practically depends on employers' convenience. Their dismissal depends on the whim of employers. There has not yet been provision for determining minimum standard for accountants, minimum qualification for the same. In other words convention is determining most aspects of the profession.

Comparison

The principles that ICAN emphasise and the Association stress are as good as the international provisions. But the practice is different. Nepali auditors have to cover several miles to make them comparable in practice to the international standard. The following Code of Conduct points out the fact clearly.

The Code of Professional Conduct of the American Institute of Certified Public Accountants consists of two sections - (1) the Principles and (2) the Rules. the Principles provide the framework for the Rules, which govern the performance of professional services by members. The Council of the American Institute of Certified Public Accountants is authorized to designate bodies to promulgate technical standards under the Rules, and the bylaws require adherence to those Rules and standards.

The Code of Professional Conduct was adopted by the membership to provide guidance and rules to all members – those in public practice, in industry, in government, and in education – in the performance of their professional responsibilities.

Compliance with the code of Professional Conduct, as with all standards in an open society, depends primarily on members' understanding and voluntary actions, secondarily on reinforcement by peers and public opinion, and ultimately on disciplinary proceedings, when necessary, against members who fail to comply with the Rules.

Other Guidance

Interpretations of Rules of Conduct consist of interpretations which have been adopted, after exposure to state societies, state boards, practice units, and other interested parties, by the professional ethics division's executive committee to provide guidelines as to the scope and application of the Rules but are not intended to limit such scope or application. A member who departs from such guidelines shall have the burden of justifying such departure in any disciplinary hearing. Interpretations which existed before the adoption of the Code of Professional conduct on January 12, 1988 will remain in effect until further action is deemed necessary by the appropriate senior technical committee.

Ethics Rulings consist of formal rulings made by the professional ethics division's executive committee after exposure to state societies, state boards, practice units, and other interested parties. These rulings summarize the application of Rules of conduct and Interpretations to a particular set of factual circumstances. Members who depart from such rulings in similar circumstances will be requested to justify such departures. Ethics Rulings which existed before the adoption of the Code of Professional Conduct on January 12, 1988, will remain in effect until further action is deemed necessary by the appropriate senior technical committee.

Principles of professional conduct

Preamble

Membership in the American Institute of Certified Public Accountants is voluntary. By accepting membership, a certified public accountant assumes an obligation of self –discipline above and beyond the requirements of laws and regulations.

These Principles of the Code of Professional Conduct of the American Institute of Certified Public Accountants express the profession's recognition of its responsibilities to the public, to clients, and to colleagues. They guide members in the performance of their professional responsibilities and express the basic tenets of ethical and professional conduct. The Principles call for an unswerving commitment to honourable behaviour, even at the sacrifice of personal advantage.

Responsibilities

In carrying out their responsibilities as professionals, members should exercise sensitive professional and moral judgments in all their activities.

Public Interest

Members should accept the obligation to act in away that will serve the public interest, honour the public trust, and demonstrate commitment to professionalism.

Integrity

To maintain and broaden public confidence, members should perform all professional responsibilities with the highest sense of integrity.

Objectivity and Independence

A member should maintain objectivity and be free of conflicts of interest in discharging professional responsibilities. A member in public practice should be independent in fact and appearance when providing auditing and other attestation services.

Due care

A member should observe the profession's technical and ethical standards, strive continually to improve competence and the quality of services, and discharge professional responsibility to the best of the member's ability.

Scope and Nature of Services

A member in public practice should observe the Principles of the Code of Professional Conduct in determining the scope and nature of services to be provided.

- ? practice in firms that have in place internal quality – control procedures to ensure that services are competently delivered and adequately supervised.
- ? determine, in their individual judgments, whether the scope and nature of other services provided to an audit client would create a conflict of interest in the performance of the audit function for that client.
- ? assess in their individual judgments, whether an activity is consistent with their role as professionals (for example, Is such activity a reasonable extension or variation of existing services offered by the member or others in the profession?).

4.6 Accountability in Private Business

Business people in modern times are making their values more transparent in the form of business principles, which set out general rules of undertaking their business besides providing a modality of approaching the issue of business principles and synchronizing the individual company principles with them. They use the same principles in dealing with the government codes as well as broader societal values.

Business people and entrepreneurs in Nepal function under the broad umbrella of the Federation of Nepali Chamber of Commerce and Industries FNCCI and Nepal Chamber of Commerce. As the apex body of the private sector business -persons and industrialists, the FNCCI stresses ethical conduct but has not yet worked out a Code of Conduct. Its constitution of course mentions various dos and don'ts for its members besides referring to rights and duties of members. It has provided for three types of membership: life-membership, special membership, and foreign membership.

The genesis of Chamber Movement in Nepal dates back to early 1950's. Inspired by the purpose of protecting and promoting rights and interests of business community, a few Chambers emerged in major trading centers of the country 1950s. The process of forming Chambers gained momentum along with the growth of city centers in different parts of the country. Consequently, a number of Chambers at different levels came into existence through out the country. At present, 85 Chambers are functioning in the country- 72 at district level and 13 at municipal level. The Federation of Nepali Chambers of Commerce and Industries, the apex body of private sector has classified the Chambers into four categories.

Besides 85 Chambers, 50 sectoral Product Associations and 9 bi-national chambers of Commerce and industry are also functioning at national level Each product association has its own affiliate at district level. In addition to Chambers and product associations, a number of NGOs and INGOs are engaged in various programmes in the field of business development and private sector promotion.

All of them appear to be conscious of their accountability and have devised various ways to fulfill their social role. Their associations besides lobbying for their own cause have begun partnership programme with other organizations in the society for the benefit of the citizens. Hospitals, hostels, roads, school buildings, scholarships for the poor, parks, town halls are some constructive works in which the business people and their organizations have been engaged over the years. Some organizations of private sector business people have been termed very useful and described as the "next to municipalities" in some areas. Their strategic alliance for working jointly for common goal is, in some cases, is exemplary.

People's perception

- ? private sector business people are after profit and not service; they are not accountable.
- ? they do not consider their public duty seriously.
- ? the consumers are cheated by them in points of measurement, quality, price, and content.
- ? they cheat the consumers and insult them through the market mechanism.
- ? it is through hoarding and manipulation in supply that they black-market the goods.
- ? the government is bribed by them.
- ? in times of crisis they sell sub-standard and low quality goods.
- ? bargaining techniques are actually developed to suit their needs.
- ? the government also considers private sector business –people crafty revenue-cheaters; they do not have trust in them; there is actually a crisis of confidence among the government and the private sector business-people.
- ? the government has simply failed to supervise the quality, supply, measurement, and price of the goods being sold in the market

Private Sector Business-people's perception

- ? we are the servers of the society; neither the people nor the government have appreciated our role in society;
- ? we are among the professionals who cannot exist without being accountable.
- ? although there is no provision for minimum qualification and legal requirement to enter the profession, the market structure examines us vigorously; we cannot avoid it.
- ? we make profit after serving and satisfying the consumers.
- ? there is no way the private sector business people can cheat consumers in point of price, quality, content and measurement; all of them are prearranged by others.
- ? there is no question of cheating the government and the people; both won't allow us to function in case we venture to do so.
- ? there is crisis of confidence between the government and the private sector; an atmosphere of trust should be created.
- ? we are ready to follow the code of conduct, should FNCCI ask us to do so.

Accountability in practice- private sector business people

Indicators	Provision	Convention	Practice
entry	free	institutional style	freedom practiced
promotion			
ethical consideration	FNCCI constitution	mixed	not visible
right to membership	FNCCI regulations		under practice
right to practice	free under government rules	always open	not obstructed
accountable to	not specific	general public	not practiced
qualification	not required		
dismissal	exit under market rules	pleasure of market	
awareness	clear	specific	not visible
monitoring	FNCCI regulations and government rules	institution	not practiced

The above Table, worked out on the basis of study of the profession and professionals, shows some indicators that can help accountability of private sector business people. The entry into the profession is free. However, the institutional style plays some role to regulate entry. The concept of promotion is not applicable. The ethical consideration is stressed by FNCCI constitution. Convention on this is mixed. It is, however, not visible in practice. The right to membership is provided for by FNCCI. The right to practice is ensured under government rules and convention is always open for this. It is not obstructed. Accountability to general public is stressed by convention but not specified by provisions. It is not practiced. Qualification is no requirement. Dismissal is governed under market rules. Awareness of accountability is clear and specific but not visible in practice. Monitoring is emphasized by FNCCI regulations and government rules but not practiced. According to the convention the institutions concerned should monitor the activities of private sector business people.

Comparison

The FNCCI has contributed most to the field of business and industry in the country. The body has actually been appreciated by many. Yet it has to do many things to make it comparable to other international bodies. The following Code of Conduct illustrates the point.

Rules of Conduct to combat extortion and bribery

These rules of conduct are intended as a method of self-regulation by international business, and they should also be supported by governments. Their voluntary acceptance by business enterprises will not only promote high standards of integrity in business transactions, whether between enterprises and public bodies or between enterprises themselves, but will also form a valuable defensive protection to those enterprises which are subjected to attempts at extortion.

These rules of conduct are of a general nature constituting what is considered good commercial practice in the matters to which they relate but are without direct legal effect. They do not derogate from applicable local laws, and since national legal systems are by no means uniform, they must be read *mutatis mutandis* subject to such systems.

The business community objects to all forms of extortion and bribery. It is recognized, however, that under current conditions in some parts of the world, an effective programme against extortion and bribery may have to be implemented in stages. The highest priority should be directed to ending large-scale extortion and bribery involving politicians and senior officials. These represent the greatest threat to democratic institutions and cause the gravest economic distortions. Small payments to low level officials to expedite routine approvals are not condoned. However, they represent a lesser problem. When extortion and bribery at the top levels is curbed, government leaders can be expected to take steps to clean up petty corruption.

Basic principles

All enterprises should conform to the relevant laws and regulations of the countries in which they are established and in which they operate, and should observe both the letter and the spirit of these Rules of Conduct.

For the purposes of these rules of conduct, the term "enterprise" refers to any person or entity engaged in business, whether or not organized for profit, including any entity controlled by a State or a territorial sub-division thereof; it includes, where the context so indicates, a parent or a subsidiary.

Basic Rules

Article 1: Extortion

No one may, directly or indirectly, demand or accept a bribe.

Article 2: Bribery and "Kickbacks"

- a) No enterprise may, directly or indirectly, offer or give a bribe and any demands for such a bribe must be rejected.
- b) Enterprises should not (i) kickback any portion of a contract payment to employees of the other contracting party, or (ii) utilize other techniques, such as subcontracts, purchase orders or consulting agreements, to channel payments to government officials, to employees of the other contracting party, their relatives or business associates.

Article 3: Agents

Enterprises should take measures reasonably within their power to ensure:

- a) that any payment made to any agent represents no more than any appropriate remuneration for legitimate services rendered by such agent;
- b) that no party of any such payment is passed on by the agent as a bribe or otherwise in contravention of these Rules of conduct; and
- c) that they maintain a record of the names and terms of employment of all agents who are retained by them in connection with transactions with public bodies or State enterprises. This record should be available for inspection by auditors and, upon specific request, by appropriate, duly authorized governmental authorities under conditions of confidentiality.

Article 4: Financial Recording and Auditing

- a. All financial transactions must be properly and fairly recorded in appropriate books of account available for inspection by boards of directors, if applicable, or a corresponding body, as well as auditors.
- b. There must be no "off the books" or secret accounts, nor may any documents be issued which do not properly and fairly record the transactions to which they relate.
- c. Enterprises should take all necessary measures to establish independent systems of auditing in order to bring to light any transactions, which contravene the present Rules of conduct. appropriate corrective action must then be taken.

Article 5: Responsibilities of Enterprises

The board of directors or other body with ultimate responsibility for the enterprise should:

- a) take reasonable steps, including the establishment and maintenance of proper systems of control aimed at preventing any payments being made by or on behalf of the enterprise which contravene these Rules of Conduct;
- b) periodically review compliance with these Rules of conduct and establish procedures for obtaining appropriate reports for the purposes of such review; and

- c) take appropriate action against any director or employee contravening these Rules of Conduct.

Article 6: Political Contributions

Contributions to political parties or committees or to individual politicians may only be made in accordance with the applicable law, and all requirements for public disclosure of such contributions shall be fully complied with. As such contributions must be reported to senior corporate management.

Article 7: Company codes

These rules of conduct being of a general nature, enterprises should, where appropriate, draw up their own codes consistent with the ICC Rules and apply them to the particular circumstances in which their business is carried out. Such codes may usefully include examples and should enjoin employees or agents who find themselves subjected to any form of extortion or bribery immediately to report the same to senior corporate management. Companies should develop clear policies, guidelines, and training programmes for implementing and enforcing the provisions of their codes.

(Source: ICC Rules of Conduct, International Chamber of Commerce, the World Business Organisation)

5.1 Conclusion

a) The professionals and their organizations are theoretically familiar with the concept of accountability. It is taken as something of book-value and discussion-theme, but not taken as something to practice in daily job. There is, therefore, a big gap, in all professions, between theoretical provision and practice of accountability.

b) The code of conduct is talked and all seem prepared to follow one if it is already prepared or chalk out one if it is not. This is mostly confined to speech-making, decoration of the professional organizations and their constitution. It is not taken as a tool to ensure accountability and guide the professional performance of job. Neither is it taken to be a directive for developing the professional organizations in a healthy manner. When questioned about the code, professionals say, in light vein, it is "in the booklet, why should it be in behaviour?."

c)The search for making professionals effective is felt in all spheres. However, the KAP-impact (effect of knowledge and attitude on practice), essential for strengthening the sense of accountability is missing. Professionals having high knowledge and appropriate attitude of the professions concerned have failed to make themselves accountable in job-situation. The scenario in professions not requiring high knowledge and attitude is more than disappointing in this respect.

d) There is a definite trend of holding meetings of professionals, but there is no culture of dialogue among professionals, or practice of discussing ethical standards and updating professionals with the latest trends in the profession. Organizations often get bogged down either in administrative work or difference generated by political passion or highly formality matters such as organizing meetings.

e) Accountability is sought and respected in all walks of life. But various components, essential for promoting the sense of accountability, have been ignored. The ones related to appointment, promotion, reward, punishment and discipline are not given due priority. The right to practice, the compulsion to be dismissed in case of wrong doing, monitoring, and ethical consideration in practice are also not given proper weightage.

5.2 Recommendations

To promote the sense of accountability among professionals discussed in the above chapters and to address the situation portrayed in the conclusion of the study, it is recommended that the following provisions be initiated immediately by all concerned:

- a) sensitization-symposium for professionals on the concept of accountability
- b) awareness building programme on code of conduct of professionals
- c) seminar on knowledge, attitude and practice of professionals
- d) training to update professionals on ethical standards.
- e) review workshop on provisions to appoint, promote, reward, punish, discipline professionals

5.3 TIN's Joint Programmes with Professional Organizations

Transparency International Nepal could launch joint programmes with the professional organizations for promoting the concept of transparency, accountability and discipline among professionals in the following way:

- a) motivating professional organizations to prepare code of conduct if they do not have a specific one
- b) empowering professional organizations to simplify code of conduct if they have one already and enable them to implement it
- c) extending cooperation to them to launch accountability-awareness scheme in workplace
- d) assisting them to make professionals to be aware of their duty to their ultimate client
- e) helping professional organizations to have dialogue on delivery of service between the professionals and the people they serve
- f) aiding them to be transparent in principle and practice in office and workplace.

A specific schedule worked out, keeping in view the present status of the professional organizations, for such joint programmes (TIN-Professional Organizations) is mentioned below:

Programme	Purpose	Participants	Outcome	Methodology
formulation of code of conduct	to empower private sector business people	Federation of Nepali Chambers of Commerce and Industries	Code of Conduct for private sector business people	study existing provisions, consulting, holding workshop and developing provisions
updating accounting practice for accountability	to provide skills to auditors and accountants	Auditors' Association	trained hands in making accounting scientific	study of latest financial laws; develop tools to keep accounts as per their spirit
medical practice and accountability	to inform practicing medicos	Medical professionals	status of accountability in medical practice	seminar; working papers, critique, discussion
access to legal remedy for the poor	to familiarise	legal practitioners	a modality to bring legal access for the poor	workshop; concept paper; discussion; development of a modality
modern engineering with guaranteed accountability	to change attitude	engineers	developing a case-study of engineering with accountability	survey, symposium; discussion; publication of the case study
investigating corruption in land revenue office	to make officials aware of the irregularities	media persons and land revenue officials	a full fledged write-up on corruption in land revenue offices	hearing the write-up, responding; working out a list of points to improve the situation

Annex

A study of provisions and practices of Accountability in Nepal's Civil Society
(with special reference to the code of conduct for Nepali professionals in the media, engineering, law, medicine, accounting/auditing, and business)

Researcher: R.K.Regmee

Sponsor: Transparency International Nepal

Period: Three months (May 15 – August 15, 001)

Brief sketch of the study: It will

- ? analyze the general trends of accountability in Nepali Civil Society
- ? explain code of conduct of Nepali journalists, engineers, legal practitioners, medical professionals, accountants/auditors and private sector business people.
- ? explain the way the code is implemented in practice
- ? study the code of conduct and practice against the backdrop of generally accepted international norms in the same professional fields (like International press ethics, International practices of engineers, lawyers, International Code of Medical Ethics, International Accounting Standard/Auditing norms, and Responsible Business Conduct and ICC approach or Global Corporate Ethics)

Objective

1. to find out the general trends of accountability in Nepali Civil Society
2. to present the code of conduct of professionals in the media, engineering, law, medicine, accounting/auditing, and business professions in a systematic manner
3. to study how the code of conduct is practiced in the professions
4. to have a comparative look at the code of conduct in Nepal and in the international arena
5. to have documentation of the status of code of conduct –provisions and practices- in one report for use in the future study

Methodology

- a) collect code of conduct of the media, law, medicine, accounting, and business professions
- b) translate them into English
- c) collect code of conduct for professionals in the international arena
- d) hold pre-study symposium
- e) have focus group discussion
- f) take interview with officials and practitioners of professional organizations and professions
- g) post-study symposium
- h) preparation of report in three phases- code of conduct, practice, comparison

Final output: A computer typeset report with three chapters: code of conduct , practice, comparison

Modality: The Researcher will undertake the study as mentioned in this document. TIN will provide support for organizing FGD, symposiums and computer works.

Question: People

1. How do you rate(professionals') accountability?
 - a. serious
 - b. not serious
 - c. negligent
 - d. self centred
 - e. careful if paid well
 - f. self centred
 - g. careful

2. Could you please express your personal experience about the(professionals') dealing with the public?
 - a. good
 - b. not good
 - c. bad
 - d. political tilt
 - e. not bad
 - f. should improve
 - g. profit determines

3. What do you think about the professional standard of the practice of the (professionals)?
 - a. excellent
 - b. good
 - c. poor
 - d. hypocritical
 - e. showy
 - f. impressive
 - g. efficient
 - h. negligent

4. Your comments on the skill of theprofessionals)?
 - a. good
 - b. bad
 - c. excellent
 - d. tactical
 - e. professionally efficient
 - f. diplomatic
 - g. money-oriented
 - h. inefficient

Question: professionals

1. How do you rate your own professional accountability?
 - a. accountable
 - b. not accountable
 - c. average accountability
 - d. fully accountable
 - e. individual accountability does not count
 - f. group accountability matters

2. What is your dealing with the public like?
 - a. high standard dealing
 - b. business dealing
 - c. fair dealing
 - d. dealing depends on how people approach
 - e. professional deal
 - f. human deal
 - g. dealing is individual matter

3. Could you kindly comment on the professional standard that you have maintained in job?
 - a. average
 - b. below average
 - c. above average
 - d. moderate
 - e. investment determines
 - f. as per laws
 - g. medical standard
 - h. professional standard
 - i. as per trade convention

4. Did you enter the profession with skills or learn them in job?
 - a. in job
 - b. already skilled
 - c. skilled
 - d. not skilled
 - e. should improve
 - f. should not improve
 - g. continued improvement is essential
 - h. skills depend on the type of profession

References

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2. Constitution of Nepal Engineers' Association
3. Constitution of Auditors' Association
4. Code of Conduct for Media persons
5. Code of Conduct for legal practitioners
6. Code of Conduct for judges
7. Constitution of Nepal 1990
8. Neera Chandhoke, State and Civil Society
9. NHRC"s Ethical Guidelines
10. Regmee, R.K., Firing Corruption