



NATIONAL
DEMOCRATIC
INSTITUTE
FOR INTERNATIONAL AFFAIRS

**The Role of Government,
Parliament and Independent Constitutional
Bodies in Establishing an Ethics Regime:
Problems and Necessary Reforms**

*August 1, 1998
Kathmandu, Nepal*

***The Role of Government, Parliament and Independent
Constitutional Bodies in Establishing an Ethics Regime:
Problems and Necessary Reforms***

***Seminar organized by:
National Democratic Institute for International Affairs (NDI)***

**August 1, 1998
Kathmandu, Nepal**

Acknowledgments

This report was written and revised by NDI Senior Program Officer Maryam Montague with assistance from Nepal NDI local staff members Deepak Khanal and Ram Guragain. Editing assistance was provided by Julie Harrod and Karen Stone.

NDI wishes to acknowledge the National Endowment for Democracy (NED) for funding the publication of this report and the Institute's parliamentary program in Nepal.

Copyright © National Democratic Institute for International Affairs (NDI) 1999. All rights reserved. This work may be reproduced and/or translated for noncommercial purposes provided NDI is acknowledged as the source of the material and sent copies of any translation.

Table of Contents

INTRODUCTION AND EXECUTIVE SUMMARY.....	2
REPORT OF THE PROCEEDINGS:	
Inaugural Session.....	5
Plenary Session One: Findings and Recommendations of the NDI Ethics Delegation.....	8
Plenary Session Two: The Role of Constitutional Bodies in Combating Corruption: Problems and Necessary Reforms.....	15
Plenary Session Three: The Role of Government in Establishing an Ethics Regime: Problems and Necessary Reforms.....	18
Plenary Session Four: The Role of Parliament in Promoting Parliamentary and Executive Branch Ethics: Problems and Necessary Reforms.....	23
CLOSING REMARKS.....	31

APPENDICES

A	Seminar Agenda
B	Seminar Recommendations
C	Issue Papers I - IV
D	Papers Distributed to the Seminar Participants
E	Press Coverage of NDI's Seminar
F	List of Participants

Introduction and Executive Summary

Building on its previous ethics work in Nepal, the National Democratic Institute for International Affairs (NDI), a non-governmental organization (NGO) headquartered in Washington, D.C., conducted an ethics mission to Nepal from July 25 to August 2, 1998. The mission was funded by the National Endowment for Democracy. The mission's purpose was threefold:

- 1) to assess the institutions and laws in Nepal that aim to promote ethics in public life and combat corruption;
- 2) to develop a series of recommendations to strengthen these institutions and laws; and
- 3) to build consensus among Nepali decision-makers about the need for reform in this sensitive area.

A delegation of three international ethics experts participated in the mission: the Honorable Dale Campbell-Savours, member of the United Kingdom House of Commons; the Honorable Vusumuzi Mavuso, member of the South African Gauteng Provincial Legislature; and Mr. Michael Korwin, senior ethics specialist at the United States Office of Government Ethics. The ethics mission was coordinated by NDI South Asia Representative Maryam Montague who is based in Kathmandu.

The delegation spent several days in consultation with the Speakers of both Houses of Parliament, the main opposition leader, senior members of Government, heads of the constitutional bodies and members of NGOs. Following these consultations, the ethics delegation drafted a series of recommendations focusing on the following areas:

Election arrangements: The introduction of a binding election code of conduct was welcomed, especially the provision for a ceiling on election expenses and the necessity of creating transparent accounts for political parties and election candidates was stressed. While the delegation has sympathy for the idea of state funding of election campaigns, it did not see this as currently practical due to financial constraints.

Appointments to the Independent Constitutional Bodies: There needs to be greater openness and accountability in the appointment process. Ideally, appointments should be made by parliament in public session.

Permanent Staff Requirements of the Independent Constitutional Bodies: Currently, appointment of civil servants to the independent constitutional bodies is temporary and is seen by civil servants as being detrimental to their careers. These bodies should be assigned permanent staff who would be offered good employment terms and conditions, as well as promotion prospects.

Prosecution of Corruption Cases: There have been very few successful prosecutions for corruption. This is due, in part, to vague laws and ill-defined terms and the fact that the

Commission for the Investigation of Abuse and Authority (CIAA) is under-resourced in both personnel and facilities. The ethics delegation commented on the quality of Nepal's judicial system, but suggested that it might be reasonable and possible to introduce special training for a group of judges in this difficult area of law, especially in the consideration of evidence.

Codes of Conduct: The principle of a code of conduct should apply to the civil service (including the constitutional bodies), to government ministers and to members of parliament.

For **civil servants**, a code of conduct would set out the obligations that apply to every employee and form the basis for a standard of conduct. These principles are already included in Nepal's anti-corruption legislation, but they need to be clearly set out in a formal code. A reformed and improved CIAA would have a central role in dealing with major breaches of this code.

For **government ministers**, the code would enshrine the principle that ministers' private affairs must not conflict with their public duties.

For **members of parliament**, a code is regarded as very important. For example, it is common worldwide for legislatures to insist on public disclosure of financial interests. It was suggested that the British system might easily be adapted for use in Nepal, with the reformed CIAA carrying out the role of the British Standards and Privileges Committee.

The delegation suggested that donors could assist in introducing codes of conduct and training to ensure maximum compliance

Role of Parliamentary Committees in Holding the Executive Accountable: Despite the considerable powers available to the State Affairs Committee to consider reports from the Attorney General and the CIAA, meetings of the two sides are infrequent. The delegation strongly recommends that they meet more frequently in the interests of transparency and effectiveness. Examples around the world show the importance of select committees in probing and questioning public bodies and the workings of government.

Parliamentary Research and Information Center: The delegation welcomed the suggestion that such a center be established to help members of parliament carry out their duties. Support from the donor nations could assist in speeding its establishment.

Following consultations and the writing of recommendations, NDI held a seminar on August 1, 1998 in Kathmandu on **The Role of Government, Parliament and Independent Constitutional Bodies in Establishing an Ethics Regime: Problems and Necessary Reforms**. The seminar was structured to promote discussion on the problems of, and strategies for, establishing an ethics regime.

More than 115 participants attended the seminar. Participants included ministers, heads of constitutional bodies, members of parliament, representatives of civil society, academicians, development workers and members of the press (See Appendix F: Participant List).

The seminar included plenary presentations and question and answer sessions as well as group discussions, providing a venue for exchange between the international and Nepali participants regarding the establishment of an ethics regime. The sessions discussed the NDI delegation's ethics recommendations, as summarized above (See Appendix B: Ethics Delegation Recommendations), considered the interplay among government, parliament and constitutional bodies in this area.

The papers presented by the Nepali participants were included in a packet of materials related to ethics and anti-corruption efforts given to each participant (See Appendix C: Issue Papers; Appendix D: Papers Distributed to the Seminar Participants). The seminar was covered by national television and radio and was featured in a number of national newspapers (See Appendix E: Media Clippings.)

NDI Seminar Report

Inaugural Session

Chief Guest: *The Hon. Ram Sharan Mahat - Minister for Finance*

Chair: *The Hon. Radha Ram Upadhaya -Former Chief Commissioner of the Commission for Investigation of Abuse of Authority (CIAA)*

Ms. Maryam Montague, representative of the National Democratic Institute for International Affairs (NDI), gave a brief introductory address. Extending her welcome to all the members of parliament and distinguished guests, she focused her remarks on the importance of public ethics. She stated that NDI's objective in Nepal and around the world was to support and promote democracy. Montague reviewed NDI's activities in Nepal over the past four years. These activities have included: voter education; leadership training for women, local government candidates and elected representatives; and ethics work with the parliament and independent constitutional bodies. For the purposes of this seminar, the participating constitutional bodies are:

- Auditor General's Office;
- Commission for the Investigation of Abuse of Authority;
- Election Commission;
- Public Service Commission; and
- Attorney General's Office (as the Prime Minister's lawyer, the Attorney General cannot be considered as independent as the others.)

Montague stated that the day's agenda would focus on political accountability and transparency, areas of great importance to the promotion of good governance.

She also introduced the three international experts, members of the NDI delegation, and gave a brief description of their backgrounds:

The Honorable Dale Campbell-Savours, member of parliament, has been a member of the British House of Commons (Labor Party) since 1979. For 13 years, he was a member of the Privileges Committee and presently he has served on the Standards and Privileges Committee since the introduction of the Nolan Reforms. Campbell-Savours was also a member of the Public Accounts Committee for 11 years and a member of the Agricultural Committee for three years. He was Shadow Minister for Overseas Development in 1991 and Shadow Minister for Agriculture from 1992 to 1994. He has participated in NDI programs in Turkey, Georgia and Nepal.

The Honorable Vusumuzi Mavuso, member of parliament, is a member of the South African Gauteng Provincial Legislature. He serves as chairperson of the Sub-Committee on Ethics and Anti-Corruption, chairperson of the *ad hoc* Public Service Commission Committee and

chairperson of the Petitions and Public Participation Standing Committee. Mavuso is also the chairperson of Transparency International, South Africa Chapter.

Mr. Michael J. Korwin is a senior ethics specialist and program manager with the United States Office of Government Ethics (OGE). Korwin has also acted as a liaison with foreign governments, and has made numerous presentations for private and public sector groups. Additionally, he has advised groups within the South African and Namibian legislatures on ethics and accountability issues.

Montague explained that the NDI delegates did not receive any remuneration from the Institute for their participation in the ethics mission to Nepal but were present because of their commitment to the establishment of ethics regimes all over the world.

Welcome Address - The Hon. Dale Campbell-Savours

Campbell-Savours extended his gratitude on behalf of the NDI ethics delegation to the government and the Nepali people for allowing them the privilege of being in Kathmandu. He also named the various persons and organizations the delegation had met during the course of their mission to draft recommendations for the establishment of an ethics regime. They include:

- Speaker of the House of Representatives;
- Chairman of the National Assembly;
- Members of Parliament, including Parliamentary Committee Chairs;
- Main Opposition Leader;
- Attorney General and his Deputies;
- Election Commissioners;
- Chairman and Members of the Public Service Commission;
- Chief Commissioner and Commissioners of the Commission for Investigation of Abuse of Authority (CIAA);
- Chief Secretary of the Council of Ministers;
- Secretary General of the Parliament Secretariat;
- Chief and Senior Officers of the Special Police Department;
- Secretary of the Ministry of Law and Justice; and
- Members of Transparency International, Pro Public and other NGOs.

Campbell-Savours noted that the NDI ethics recommendations for Nepal were of a practical nature and emphasized that the delegation claimed no monopoly on good governance.

Excerpt from the welcome speech given by the Hon. Dale Campbell-Savours

"Throughout our research we were ever conscious that Nepal is in the early years of democracy as compared to the United States or Britain and that we needed to be practical in our recommendations. We wish to make it clear that we claim no monopoly on good governance."

Campbell-Savours explained that the United States of America is a constitutional republic with a written constitution and a long history of democracy, South Africa is a newly born constitutional republic with a written constitution, and the United Kingdom is a monarchy with no written constitution but a long democratic tradition. Despite these differences, he highlighted four fundamental principles that underlie the democratic systems of all three of these countries:

- transparency and accountability;
- free press;
- effective enforcement regimes, which cannot be manipulated; and
- political will.

Campbell-Savours concluded that without these four principles in place, democracy cannot survive in any country.

Remarks from the Chief Guest: The Honorable Ram Sharan Mahat, Minister for Finance

Thanking NDI for the opportunity to be the Chief Guest of this important seminar, Mahat stated that although corruption is a universal phenomenon found in all countries, it has been particularly problematic in developing countries. Mahat emphasized that corruption stifles development, the burden of which falls disproportionately on the common people.

Excerpt from the presentation of the Honorable Ram Sharan Mahat

"Rising corruption has led to the general view of public office as a place from which to distribute favors - a place that fosters patron-client relationships."

Mahat further stressed that the needs of the hour are committed political leadership, a free press, an enlightened civil society and a strong value system. He stated that the common perception today is that the advent of democracy has not ended the reign of corruption. Therefore, the elimination of corruption should be the collective effort of the government, constitutional bodies,

civil society and the international community. This collaboration can pave the way for good governance, without which it is difficult to consolidate democracy.

Remarks from the Chairperson: The Honorable Radha Raman Upadhaya, Former Chairperson of the Commission for the Investigation of Abuse and Authority

Chairperson Upadhaya thanked the participants and the NDI delegates, stating that the presence of members of parliament at this important seminar reaffirmed their commitment to the issues being discussed and demonstrated the gravity of their importance. In conclusion, he also thanked NDI for giving him the opportunity to chair the session and the participants for their commitment and participation.

Plenary Session One

Findings and Recommendations of the NDI Ethics Delegation

Chair: *The Hon. Radha Roman Upadhayay, Former Chief Commissioner of the Commission for Investigation for Abuse of Authority (CIAA)*

The Hon. Dale Campbell-Savours, leader of the NDI ethics delegation, presented the recommendations drafted by the delegation in the hope of fostering a debate on the establishment of an ethics regime in Nepal. He emphasized that all the recommendations were characterized by the belief that existing structures should provide for full disclosure and transparency.

The NDI ethics delegation's recommendations are as follows:

Election Arrangements

Given the importance of transparent accounts for political parties and election candidates, the decisions of the Election Commission to introduce a binding election code of conduct and a bill regulating political parties are significant steps. The public is entitled to know the contributions of various individuals and organizations to the coffers of the different political parties and candidates. A firm ceiling on election expenses of all political parties and candidates and its consequent enforcement by the Election Commission will facilitate free and fair elections. Election officers at every level throughout the country would need to be far more accountable to the Election Commission.

Appointments to the Independent Constitutional Bodies

Greater openness and accountability for public appointments to independent constitutional bodies is important. Appointments made by the Constitutional Council should be considered by the

parliament in public session. In both the United States and South African systems, legislative committees are required to confirm or reject nominees. In the United Kingdom, appointments can be subject to immense public debate both inside and outside Parliament. If the Nepali legislature were involved in confirmation or in full parliamentary scrutiny of appointments, much public criticism would be appeased.

Permanent Staff Requirements of the Independent Constitutional Bodies

It is disturbing to learn that some civil servants in the constitutional bodies prefer to remain where they are within a government department rather than serve on a constitutional body. Therefore, the terms, conditions and promotion prospects of people working in government departments should not be detrimentally affected by their transfer to a constitutional body, particularly the CIAA. Short-term appointments of civil servants to both government and constitutional bodies, except when there is a requirement for special skills, can be damaging to the culture of public service. The delegation recommends the assignment of permanent staff to these constitutional bodies to ensure their effectiveness, efficiency and independence.

Prosecution of Corruption Cases

The inability of the authorities to successfully prosecute corruption cases can be attributed to insufficient definition of the words "bribery" and "corruption" in the law, making it difficult to prove corruption cases and try them in court. This is compounded by the arguments that surround the issue of burden of proof. In civil cases in the United Kingdom, the burden of proof is "*on the balance of probabilities*." In criminal cases, the burden is much higher; conviction is not possible unless a jury is satisfied "*beyond reasonable doubt*." Both the South African and United States systems are very similar with respect to the issue of burden of proof. Moreover, the absence of forensic capability and the inadequate resources of the CIAA, in terms of staff trained to international or even Nepali service standards, undermine the credibility of the CIAA.

The absence of a suitable court where such complicated cases could be heard and understood was suggested as one of the difficulties in prosecuting corruption cases. These deficiencies must be addressed as a matter of urgency, as the credibility of this extremely important body is beginning to be questioned. In other countries, particularly the UK, the idea of special courts to deal with public corruption cases is being discussed. While the creation of special courts across the country would be impractical, the introduction of specialist training for a group of judges in this area of law would improve matters. Lastly, the role for the Special Police Department is not clearly defined.

Codes of Conduct

Despite the comprehensive nature of the Constitution, rules for parliament and terms of the anti-corruption legislation, there is no provision for a code of conduct. Codes of conduct are used in other legislatures to consolidate the law in a way that enables the individual to fully understand

his or her obligations and responsibilities in public service and to the institutions to which they belong. Codes of conduct are not new in Nepal: the Code produced by the Election Commission states that *"It shall be the duty of His Majesty's Government, officials of all governmental and semi-governmental entities, political parties, the candidates of the political parties and independent candidates to abide by this code of conduct."* The NDI delegation has recommended that the principles of a code of conduct should apply to three areas of public administration: members of parliament, government ministers and civil service.

The Code of Conduct for Civil Service

The basic obligations of public service should be included in a separate code of conduct for civil servants. These obligations should be set forth in general principles that apply to every employee and form the basis for their standards of conduct. Principles that should be considered include provisions focusing on the obligations of employees. They should:

- remain loyal to the Constitution and place law and ethical principle above private gain;
- not hold financial interests that conflict with the performance of duty;
- not engage in financial transactions that include the use of non-public information;
- not use public office for private gain;
- not engage in outside employment and activities that conflict with their public duties;
- act impartially and not show preference;
- not make promises on behalf of the government for which they do not have authority to do so;
- disclose fraud, waste, abuse and corruption to the appropriate authority and;
- not disclose information, on leaving government service, regarding matters in which they were involved while in government.

Although these principles already exist in Nepal's anti-corruption legislation, they should be included in a separate code of conduct, written in plain language that every civil servant understands. The Public Service Commission would have an important role to play in enforcing such a code of conduct. However, a fully reformed CIAA would also have a role in securing investigations in the case of major violations.

The Code of Conduct for Ministers

The general principle that underlies such a code of conduct is that ministers should arrange their private affairs so they do not conflict with their public duties. In the United Kingdom, ministers are not allowed to retain directorships and direct shareholdings in private companies. Any private holdings they retain, unless they own land and property, have to be held in independent trusts, and if any changes to their financial arrangements appear in any way to breach the principles in the Code of Conduct for Ministers, they must inform the Cabinet Secretary (the equivalent of the Chief Secretary of the Council of Ministers in Nepal.) Ministers are required to avoid speculative

investments in price sensitive areas and have strict restrictions on gifts and hospitality.

The Code of Conduct for Members of Parliament

Almost all legislatures throughout the world now insist that members of parliament be tightly regulated in terms of disclosure of their financial interests. Public disclosures of their financial interests, ensuring total transparency, is paramount for an effective code of conduct.

Nepal might take a look at the British system in this regard. The four main characteristics of the British code of conduct for MPs are:

- 1) A requirement to register all financial interests and benefits annually. These include directorships of companies, arrangements for employment outside parliament, sources of election funds, gifts, overseas travel, land, property and shareholdings of over one percent of an issue's share capital. These registrations are carried out when the MPs arrive in parliament and when they leave. This registration also applies to ministers who are members of parliament.
- 2) The disclosure of income in a written, registered employment agreement, if the MP earns money outside parliament.
- 3) Regulations covering possible conflict of interests in parliamentary committees: this has a parallel in Nepal's parliamentary rules.
- 4) Restrictions on the right to lobby ministers and speak in parliament when a member of parliament has registered an interest.

This regulatory regime is policed and enforced by the Commissioner of Standards and Privileges, who is an officer of parliament but totally independent. The Commissioner, in turn, reports to the ethics committee, which is called the Standards and Privileges Committee in the United Kingdom. This system could be adapted for use in Nepal. If the CIAA is reformed, the CIAA could carry out the role of the Commission of Standards and Privileges through a designated official who would report to the Nepalese ethics committee. In Britain, it was found that the public cannot rely on MPs to investigate themselves, as they invariably act politically and are subject to political considerations.

Role of Parliamentary Committees in Holding the Executive Accountable

Rule number 191 of Nepal's House of Representatives invests substantial powers in the State Affairs Committee to consider the reports of the Attorney General and the CIAA. These powers include:

- the right to consider the merits of investigations and whether they are carried out satisfactorily;
- the right to consider whether the preventative role of the CIAA is being administered effectively; and
- the power to recommend methods to improve the effectiveness of the way the CIAA operates.

In Nepal, neither the Attorney General's Office (AGO), nor the CIAA give evidence on a regular basis to the appropriate parliamentary committees: in other countries these bodies would be *frequently* required to give evidence to these committees. In the United States system, the committees are very powerful, holding their public bodies accountable, taking evidence from NGOs, and examining witnesses. It was suggested that MPs consider the frequency of such meetings in other legislatures around the world and the benefits these meetings bring to the whole process of transparency and the effectiveness of government departments and agencies.

Parliamentary Research and Information Center

The establishment of a Parliamentary Research and Information Center, as suggested by the Speaker of the House of Representatives, would assist MPs in performing their duties.

Such a center should employ people of high academic ability and perform three functions:

- 1) carry out detailed research--free of political bias--on government publications, including bills and other consultation papers;
- 2) be responsible for the completion of research that includes international and domestic sources; and
- 3) provide both written and oral briefings when MPs feel it necessary.

The NDI delegation expressed hope of immediate support from donor nations to get an early start on the establishment of the Parliamentary Research and Information Center. In conclusion, Campbell-Savours stated that the issues raised during the course of these recommendations would be the subject of discussion during the seminar.

Excerpt from the presentation of the Hon. Dale Campbell-Savours

"We were made repeatedly aware, by almost all the groups with which we met, including members of the public, of the need for greater disclosure and transparency in the whole process of public administration and governance in Nepal."

Discussion:

Mr. Kuber Sharma, President, Green Nepal Party:

Q: *Is it possible to impose a poll tax or arrange for state funding of elections?*

A: Campbell-Savours:

Although we favor transparency, we see it in terms of setting limits on the expenditures of political parties and are not in favor of introducing new taxes related to elections.

Mr. Narendra Kumar Shrestha, Senior Government Advocate:

Q: *In Nepal, different laws apply to ordinary citizens and constitutional officials; ordinary citizens are prosecuted and punished by a court of law while constitutional officials are impeached by parliament. Are constitutional officials exempted from prosecution in a court of law in the United Kingdom, United States of America and South Africa?*

A: Mavuso:

In South Africa, all are equal before the law, hence the law must apply equally to all South African citizens.

A: Korwin:

In the United States, all are subject to the same prosecution and penalties if found guilty. There exists no differentiation based on position.

A: Campbell-Savours:

In the United Kingdom, all are treated equally before the law. Effectively they stand before the same courts to face the decisions of the same courts. There is discussion on intellectual or financial crimes being possibly dealt with in separate courts.

Dr. Ishwor Prasad Upadhaya, Secretary General, Parliament Secretariat:

Q: *How can we ensure that appointments to constitutional bodies made through parliament are unbiased?*

A: Campbell-Savours:

If you notice in our recommendations, we suggest two options in terms of parliament being involved in appointments to constitutional bodies: parliament confirms the nominations of the constitutional candidate or parliament debates the nomination. In ideal arrangements, parliament confirms the nominations.

A: Korwin:

In the United States after holding public hearings, the Senate confirms or rejects any appointments to public positions. After public hearings, before going to the Senate, the candidate has to be deemed qualified by the appropriate committee.

A: Mavuso:

In South Africa, parliament discusses and debates the nominations, which also includes a rigorous scrutiny to assess the candidates' capabilities. Additionally, the media gets very much involved.

Dr. Prakash Chandra Lohani, Member of Parliament and former Minister:

Q: In Nepal, although the Public Accounts Committee can investigate irregularities in the government's income, revenue and expenditure, there exists no mechanism to follow-up on its recommendations. Often, the government ignores the Committee's recommendations. In the United Kingdom, if a case of corruption is proven by the Public Accounts Committee, what is the follow-up procedure?

A: Campbell-Savours:

I have been on the Public Accounts Committee, and we have found wrong-doing. The Committee meets regularly twice a month for three or four hours in public sessions covered by the media. During investigations, civil servants of the department under investigation are repeatedly questioned by the Committee. If any department is suspected of being corrupt, the responsible person is brought to the committee not only for an hour but time and time again until the Committee is satisfied. If matters are to be referred for prosecution, the department must hand over all the papers to the police for further investigation. If corruption is proven, imprisonment is a likely possibility.

Jagannath Poudel, Member of Parliament:

Q: How do you deal with serious violations of the codes of conduct?

A: Korwin:

Codes of conduct are interpretations of the laws, which apply, for example, to civil servants and have criminal consequences. As they are administrative Codes of Conduct, administrative sanctions against employees can be imposed while criminal investigations are under way.

Dr. Surya Dhungel, President, Society for Constitutional and Parliamentary Exercises (SCOPE):

Q: The Commission for Investigation of Abuse of Authority (CIAA) has two clearly defined roles: that of an ombudsman and a body with the ability to investigate and prosecute corruption cases. However, in reality, the CIAA has not been able to discharge these roles effectively. How can we make it more effective?

A: Campbell-Savours:

We are unable to make a clear recommendation, as it requires more time and interviews on our part. However, the CIAA may well have a problem. In our view, the CIAA does not have the necessary resources, including forensic capability and professional, long-term staff persons to conduct investigations properly. If these needs are addressed, the CIAA will be able to operate more effectively.

Plenary Session Two

The Role of the Constitutional Bodies in Combating Corruption: Problems and Necessary Reforms

Chair: *The Hon. Ram Prasad Shrestha, Former Chief Commissioner, CIAA*

Moderator: *The Hon. Dale Campbell-Savours*

Presentation by the Rt. Hon. Bishnu Bahadur K.C., Auditor General

Thanking NDI for the opportunity to address the important issue of corruption, K.C. stressed the importance of a collective effort to be launched at a national level, accompanied by support and commitment from both the people and government to combat the problems of corruption.

He explained that the role of the Auditor General's Office (AGO) is not to investigate and eliminate corruption but to audit the financial transactions of the government. He cited the absence of effective internal auditing mechanisms as barriers hampering the AGO from fulfilling its specified tasks and responsibilities.

K.C. stated that transparency in economic transactions and public access to information were imperative to stem the growing tide of corrupt practices. Although the Constitution has granted the AGO independence in matters of appointing its own staff, in reality, recruitment of staff is determined by the Ministries of Finance and General Administration. He noted that the absence of any provisions to provide employees with incentives to encourage good work further limited the effectiveness of the AGO. He concluded by saying that auditing was an important component of management and was in the best interest of the government (See Appendix C: Issue Paper I.)

Excerpt from the presentation of the Rt. Hon. Bishnu Bahadur K.C.

"Auditing is a component of management - when it points out irregularities, it helps to improve the system."

Moderator: The Hon. Dale Campbell-Savours

Campbell-Savours remarked that the Auditor General's Office has great significance in the United Kingdom, as it has direct access to places where irregularities are prevalent. In Nepal's case, he suggested maintaining the independence of the constitutional bodies. He commented that this was the expressed desire of the Constitution. He also stated that if the constitutional bodies work effectively, the credit should go to the government.

Presentation by the Hon. Madhav Dutta Bhatta, Commissioner, Commission for Investigation of Abuse of Authority (CIAA)

Bhatta commented that good governance is a prerequisite for ensuring the rule of law. He remarked that if the government is not responsible in the course of discharging its duties, or there is malpractice, serious problems can occur. Hence, good governance is essential. Bhatta noted that corruption is a social disease that plagues the establishment of good governance in Nepal and exacerbates poverty by misallocating resources, misutilizing foreign aid and assistance and, ultimately, stifling economic growth and development.

Bhatta explained that, although the CIAA was established as a constitutional body to investigate and curb corruption, the absence of adequate legal provisions, economic resources and capable human resources has hindered the CIAA's ability to discharge its responsibilities effectively. Outlining the various kinds of corrupt practices, he stated that corruption is a multi-dimensional phenomenon that manifests itself at all levels of society. Bhatta expressed the opinion that corruption was most prevalent among public office holders.

Bhatta remarked that as corruption is a social disease, it can be tackled using both preventive and curative actions. In this respect, he highlighted the importance of establishing a healthy administration and transparent procedures, rather than imposing penalties, as the most effective means to curb and control corruption (See Appendix C: Issue Paper II.)

Excerpt from the presentation of the Hon. Madhav Dutta Bhatta

"Corruption is both a social disease and an intellectual crime which thrives in governments that lack transparency."

Discussion:

MP Hiranyalal Shrestha, Chairman, Human Rights and Foreign Affairs Committee:

Q: The rising criminalization of politics can be attributed to both national and international factors. The practices of multi-national companies (MNCs), in particular, have fed the growing corruption in weak economies. There should be a program to establish an international ethics regime to curb the practices of MNCs. One of the CIAA commissioners stated that smugglers were more powerful than commissioners and commissioners feared for their personal safety. The fear of the organized mafia also deters the prosecution of corruption cases. This problem is compounded by other variables, such as low salaries, unsuitable appointments to public bodies and the absence of security in government jobs. Is there any solution?

A: Korwin:

Equitable pay levels for civil servants will help stem corruption by restraining the need to engage in corrupt practices. Regarding MNCs, the United States has a provision in the 1977 Foreign Corrupt Practices Act which states that American government officials and private citizens transacting on foreign soil are liable for criminal penalties if engaging in corrupt practices. We have worked to stop corruption among our multi-national corporations.

A. Mavuso:

Criminalization in politics cannot happen unless there is the presence of both supply and demand. In South Africa, there are some regulations that are coming into being designed to deal with this issue.

MP Pari Thapa, Chairman of Parliamentary Graft Committee:

Q: Has there been any incident in the 700 years of the British parliamentary system where the Supreme Court has ruled against the recommendations of the Public Accounts Committee and the Attorney General's Office?

A: Campbell-Savours:

Drawing a distinction between the role of the court to make a decision on the point of law and the role of the Public Accounts Committee and Attorney General's Office to make judgments in the interest of the State, the Supreme Court can overturn decisions based on points of law.

A: The Rt. Hon. Badri Bahadur Karki, Attorney General:

The Attorney General's office is going through a difficult phase. When I point out irregularities, I get involved in cases. If I say anything about the decision of the court, I can be accused of contempt of court. So the Attorney General is forced to be very careful.

Jaya Prakash Prasad Gupta, Member of Parliament:

Q: Despite the importance given to the constitutional bodies by the Constitution, they remain ineffective. The reports of the CIAA and the Attorney General's Office are presented to the full

house of parliament through the appropriate line ministries. The relevant committees discuss and reflect on these reports and develop their own reports that are presented in parliament. However, the weakness of this system is that the presenter can only present the report without any discussion, comments or suggestions. Due to this process, the recommendations and suggestions of the report remain unknown to parliamentarians. This implies a weakness in the implementation mechanisms to enforce these reports. What are the provisions in your country to make such reports effective?

A: Campbell-Savours:

Without upsetting anyone, when these annual reports come before the committees they are torn to pieces. This is quite effective.

Hira Dutta Bhatta, Member of Parliament:

Q: A contradiction exists - constitutional bodies complain of a lack of autonomy and financial resources, which constrains their effective operation. Meanwhile the government accuses constitutional bodies of inefficiency. What are the experiences of your countries?

A: Mavuso:

In South Africa, if appropriation of revenue takes place, the constitutional bodies must perform accordingly and report their activities to Parliament.

A: Korwin:

In the United States of America, once the appropriation process takes place, the bodies funded are required to report their activities to the legislature or Congress every year, so that the use of resources is transparent.

A: K.C., Auditor General:

In other countries, budgets are allocated appropriately so government bodies do not have to go back to the finance minister constantly.

Plenary Session Three

The Role of the Government in Establishing an Ethics Regime: Problems and Necessary Reforms

Chair: *Mr. Bharat Dhital, Former Vice Chairman, National Planning Commission*

Moderator: *Mr. Michael Korwin*

Presentation by the Rt. Hon. Badri Bahadur Karki, Attorney General

Karki commenced his presentation by saying that the opinions expressed in his presentation were his alone, and not those of the Attorney General's Office. He stated that although the need for

a good administration is frequently stressed by politicians, civil servants and judges, the concept lacks definitional clarity. For instance, the administration may be considered 'good' if it achieves the policy goals of the current government. Karki stated that this implies that what constitutes a good administration may vary with changes in the requirements of the government and the role of the state. However, he explained that confusing the function of the administrative body with the principles that govern its operation undermines the constitutional position of civil servants as permanent, nonpartisan servants of the crown. Stating that the terms *accountability* and *responsibility* lacked clarity, he outlined the mechanisms for accountability and responsibility under the Nepali constitutional framework. These include provisions for the following:

- elected representatives to be politically accountable to the electorate, in general;
- government ministers to be collectively and individually responsible to, and removable by, the House of Representatives;
- government decisions and parliamentary enactments, including constitutional amendments, to be revisable by the Supreme Court;
- criminal responsibility for acts of omission and commission;
- dismissal from government employment or lesser punishments for civil servants violating ethical standards of behavior;
- strong public censure by the public, media, and opposition parties;
- accountability through the auditing of government accounts; and
- control and supervision through hierarchical administrative legal processes and channels.

Karki gave a brief background to the various institutions related to insuring accountability, such as the CIAA, the Auditor General's Office, the Public Service Commission and the Election Commission.

Highlighting the need to restore credibility in the administration, Karki proposed the following methods to enhance the effectiveness of the government in establishing an ethics regime:

- institutionalization of government decisionmaking;
- strengthening the CIAA's functional capacity in terms of financial and human resources;
- promotion of preventive actions to curb corrupt practices;
- quick resolution to the existing controversy among the CIAA and Attorney General's Office and CIAA and Special Police Department;
- government support of, and cooperation with, constitutional bodies like the CIAA;
- adherence to relevant rules in government decision-making processes; and
- regular review of existing laws by the Law Reform Commission.

Karki also remarked that the government spends much of its time creating and dissolving government coalitions and hence lacks effectiveness. In this regard he said that the government is far behind in drafting laws. Karki also stated that the government has lost several court cases, as it is not able to hire capable lawyers. He commented that the CIAA is in a similarly difficult

position, as it does not have the financial resources to hire investigative experts. He complained finally that people are promoted to sensitive posts not on the basis of merit but on the basis of personal loyalty (See Appendix C: Issue Paper III.)

Excerpt from the presentation of the Rt. Hon. Badri Bahadur Karki

"... What constitutes good administration is above government and certainly above outside party interests. This would accord the concept of constitutional authority and suggest that the principles underlying it should not be undermined or dissipated by political requirements."

Presentation by Mr. Michael Korwin

Korwin stated that the world was witnessing a growing global awareness of the need for effective measures to combat corruption by government officials. Sharing the United States' experience in establishing preventive measures to deal with misconduct by public officials, he cited corruption as one of the major reasons for the failure of democratic reforms. Korwin explained that recent studies by the World Bank indicate a strong correlation between corruption and low levels of economic development. He recommended preventive measures that went beyond investigation, prosecution and punishment as being particularly crucial to control corruption. He added that the Council of the Organization for Economic Cooperation and Development had recently adapted a 12-point checklist for improving ethical conduct in public service.

Excerpt from the presentation of Mr. Michael Korwin

".....Preventive measures are particularly important. Certainly the enforcement side of the equation must also be strong. We must go beyond investigation, prosecution and punishment of misconduct. We must have preventive measures in place that not only take some burden off law enforcement but also maintain high levels of public confidence."

Giving a brief background on the issue of corruption and anti-corruption efforts in the United States, Korwin stated that following the Watergate scandal, the government adopted a proactive approach, relying on systems to prevent abuses that emphasized civil and administrative remedies. This approach also led to the creation of new government agencies to deal with ethics concerns, including the Federal Election Commission (FEC) and the Office of Government Ethics (OGE). He stated that the OGE has separate investigators in each department. If substantial evidence of corruption is found, this information is sent to the Department of Justice.

Outlining the OGE's role in the executive branch's ethics program, he highlighted the following features:

- *Prevention:* The OGE's central mission is the prevention of conflicts of interest and does not include the investigation or prosecution of cases of individual misconduct.
- *Decentralization:* Although the OGE sets the ethics framework for conduct, the actual management is accomplished by individual government agencies allowing for decentralized functioning.
- *Independence:* The OGE is an independent body within the executive branch of government. The OGE director, who is a presidential appointee, is confirmed by the Senate and serves for a five year term, extending beyond the United States president's four year term.

Korwin also focused on the following areas in which the OGE is involved:

Standards of Conduct: These standards, or codes, which the OGE has developed, contain specific rules dealing with gifts from outside sources, gifts between employees, conflicting financial interests, impartiality, pursuance of employment, misuse of position and outside activities. These codes of conduct are based on two fundamental principles: 1) *an official should not use public office for private gain;* and 2) *an official should act impartially while executing official duties.*

Financial Disclosure: This requirement calls for the filing of public financial disclosure reports, which include individual financial interests, and earned and other non-investment income and honorariums. Certain senior government officials are bound by these financial disclosure provisions, including the president, vice president, presidential appointees, senior career diplomats, military officers and administrative law judges.

Education: To enable government employees to understand their responsibilities better, all new executive branch employees are required to receive at least one hour of ethics training when they enter government service.

Agency Assistance: The OGE provides assistance to agencies in the administration of their ethics programs.

Program Review: To maintain program quality, the OGE conducts regular reviews of agency programs and undertakes other single issue audits to ensure program quality.

In conclusion, Korwin emphasized that such preventive measures apply principles of accountability and transparency to the conduct of public officials and enable government to deal more effectively with corruption.

Discussion:

Mr. Krishna Hachhethu, Lecturer of Political Science, Tribhuvan University:

Comment: People complain that corruption is institutionalized, and that this country is run by smugglers. In Nepal, this has always been used as the excuse for poor performance. From a low ranking official to the prime minister I have not seen satisfactory accountability. I would like to request public officials to stop making excuses.

Mr. Purna Man Shakya, Constitutional Lawyer:

Q: *It is evident that the CIAA is unable to effectively fulfill its role, as government officials do not take the CIAA seriously. Meanwhile the absence of sufficient prosecuting powers in the Attorney General's Office restrains its ability to perform its duties. Is it possible to draft an amendment to address this?*

A: Karki, Attorney General:

Owing to contradictions in the two constitutional bodies, a case has been registered in court to establish respective jurisdictions. Therefore, the case is *sub-judice* and will be decided by the court. My office and the CIAA are trying to work collaboratively.

Silu Pyari Karmacharya, Member of Parliament:

Q: *Elections have become the grounds for making money, flexing muscle and manipulating. This discourages women's participation in governance both as voters and as elected representatives and has undermined people's faith in democracy. What are your thoughts about this?*

A: Campbell-Savours:

We did not investigate some of the areas mentioned due to time constraints. We are surprised to hear that women are facing difficulty using their franchise. Can I draw your attention to your own Constitution which clearly guarantees this right of women without any discrimination. You, as an MP, are in a position to bring this issue forward to help make sure that each polling office is ensuring that women are voting freely.

A: Korwin:

The United States has several civil rights and voting laws which prohibit any discrimination of participation in elections on the grounds of gender, class, religion and community. However, elections in a democracy are subject to influence peddling, leaving room for improvement. In the case of election misconduct by any important officials, the Attorney General's Office calls for a special independent counsel to conduct independent, non-partisan investigations. However, constant vigilance is necessary.

A: Mavuso:

Chapter one of the Constitution of South Africa says that the Republic is based on principles of human dignity, human rights, freedom, non-racism and non-sexism. Therefore, the constitution

allows for people of all kinds to participate as equals.

Mr. Padam Lal Shrestha, President of Team Nepal:

Q: Is there a system of auditing within the department of the Auditor General's Office itself?

A: K. C., Auditor General:

The auditing of the Auditor General's Office is performed by individuals specified by the Auditor General. Investigations are carried out in the case of irregularities.

Concluding the session, Dhital remarked that such open discussion on the issue of corruption and its affects on development were a good sign. He thanked NDI for organizing the seminar.

Plenary Session Four

The Role of the Parliament in Promoting Parliamentary and Executive Branch Ethics: Problems and Necessary Reforms

Chair: *The Hon. Daman Nath Dhungana, Former Speaker of the House of Representatives*

Moderator: *The Hon. Vusumuzi Mavuso, Member of the Gauteng Provincial Parliament, South Africa*

Presentation by the Hon. Deepak Prakash Banskota, MP and Former State Minister

Banskota stated that the behavioral patterns of officials and important persons reflect their ethics. He outlined numerous legal provisions, including the Constitution of the Kingdom of Nepal, that clearly establish the duties of public office holders. Despite these provisions, he said that the conduct and activities of MPs and ministers have been consistently criticized, which is unfortunate, as these public officials should be setting exemplary standards.

Banskota remarked that a code of conduct ought to be followed by top officials, setting an example for others to follow suit. He stressed that MPs, cabinet members and heads of constitutional bodies must discipline themselves better.

Banskota noted that since the 1990 movement, although all political parties have participated in government, ethics have not been a priority for any party. He said that bureaucrats, like politicians, are flagrantly violating regulations against personal gain. Banskota stressed that in a parliamentary system of governance, the parliament reigns supreme and can formulate laws to put pressure on the government and approve separate legislation on the development of a code of conduct. He placed emphasis on the fact that parliament is the only body in a democracy that can annul, approve and amend proposals of the executive.

Banskota outlined a 1996 publication of the Organization for Economic Cooperation and Development which lays out eight conditions for an ethical regime that are relevant to Nepal:

- political commitment;
- effective legal system;
- responsible executive mechanisms;
- practical codes of conduct;
- professional and social mechanisms;
- positive conditioning of the public service;
- codes of conduct coordination committee; and
- "watch-dog" committee of active citizens.

Banskota stated that the absence in Nepal of an implementation mechanism for ethical conduct was a problem. In conclusion, he proposed the following measures to foster ethical behavior:

- introduce legislation;
- develop practical codes of conduct for all institutions and officials;
- increase the effectiveness of the parliamentary ethics committee;
- cultivate an all-party political commitment;
- establish ethics departments in universities;
- establish clearly defined limits on wealth accumulation by MPs, ministers and high-level officials; and
- form an active citizens' group comprised of capable citizens and journalists.

(See Appendix C: Issue Paper IV.)

Presentation by the Hon. Dale Campbell-Savours

Campbell-Savours stated that the NDI delegation had heard various statements about the inefficiency of Nepal's constitutional organs and the non-functional nature of civil society. In his opinion, however, parliament is always to blame for a poor state of affairs, and it is only parliament that can initiate the process of change that will determine the future of democracy. In this vein, he stated that parliament must assert itself.

He briefly outlined the landslide victory of the Labor Party in Britain's last elections. He said that this victory was made possible because the Labor Party had adopted an anti-corruption platform.

Campbell-Savours emphasized that the code of conduct for British parliamentarians is the Bible of every British MP, as violations of the code can result in the loss of their parliamentary seat.

He explained that British MPs are also required to complete forms detailing their assets, income, services and interests. This information is open to public scrutiny.

Campbell-Savours also said that the enforcement officer of the British Code of Conduct is also the Commissioner of the Commission for Standard and Privileges and is independent and cannot be manipulated politically. Although the Commission operates within the parliament, it produces independent reports, which are debated in parliament. There must be a collective decision on the penalties to be imposed, should a person be deemed guilty.

Excerpt from the presentation of the Hon. Dale Campbell-Savours

"It is only parliament that can initiate the process of change that determines the future of democracy."

Presentation by the Hon. Vusumuzi Mavuso

Mavuso began his presentation by saying that democracy ushers in new opportunities and challenges. He stated that democracy in South Africa had brought about the realization that all South Africans belonged to one race - the human race. Mr. Mavuso said that it was understandable that all new democracies have "teething problems." However, he emphasized that corruption was a phenomenon that erodes the moral fabric of society, violates the rights of the poor, denies the benefits of free and open competition and undermines democracy. He stressed that in order to combat corruption, it is essential to encourage an environment of disclosure and accountability.

Excerpt from the presentation of the Hon. Vusumuzi Mavuso

"Disclosure is the oxygen of sound public life. Nothing is private in the public life of public officials."

Citing the case of South Africa, Mavuso recommended a committee of members of all political parties to investigate irregularities. He noted that such a committee would create a situation in which members were their own police. Mr. Mavuso suggested that in Nepal, as in South Africa, sanctions against MPs who do not behave in an ethical manner, could range from warning fines, to reductions in salary, to suspension from parliament. He affirmed that MPs should set exemplary standards and expressed the need for stringent mechanisms to regulate the activities of parliamentarians accompanied by a collective effort from all sectors of society.

Stating that corruption knows no boundaries, Mavuso concluded by saying that a home grown solution to combat corruption would boost economic development and create a better future for generations to come.

Discussion:

Mr. Jivan Lal Satyal, Former Secretary General, Parliament Secretariat:

Q: If a minister or MP is proven guilty of accepting a bribe, what is the procedure in the United Kingdom?

A: Campbell-Savours:

In the United Kingdom, in theory, if it is proven that an MP has accepted a bribe, that MP is to be prosecuted. Recently, a debate has arisen over parliamentary privileges especially those dealing with immunity. Now, the laws are being tweaked a little to ensure that an MP is prosecuted if deemed guilty. Additionally, MPs are subject to sanctions by parliament itself. The person offering the bribe is also subject to criminal laws. In our last general elections, a scandal in which an MP was paid \$30,000 was brought before our ethics committee. The Commissioner carried out an investigation. The MP was proven guilty. The ethics committee held up the Commissioner's report. The MP's party dropped his candidature and he lost his seat. He was dishonored.

Dr. Ishwor Prasad Upadhyay, Secretary General, Parliament Secretariat:

Q: MPs are faced with the current reality of rising election expenditures. These are expenditures that the meager salaries of MPs cannot meet. Nonetheless, any proposals to augment the salaries of MPs are met with opposition. How can an honest person be expected to contest elections?

A: Campbell-Savours:

We cannot provide solutions. But, if a system can be potentially corrupted, then people will find the answer in corruption. Given this reality, you must address the question of whether MPs can survive on their small incomes.

Sharada Pokhrel, Member of Parliament:

Q: In the context of our short experience as a democracy and given the current confusing political situation, should it not be compulsory for political parties to adopt a code of conduct, especially regarding the sources of funding for the parties?

A: Mavuso:

Leaders must come from somewhere. Disclosure of sources of contribution to the political parties is a terrain of struggle. However, it is a critical issue that also sheds light on who can influence the agenda of the different parties and, hence, awaits parliamentary approval in South Africa.

Open Discussion:

M. K. Thakur, Coordinator, Pro Public:

Q: *Campbell-Savours said that he liked the ideas that Banskota expressed regarding the disclosure of MPs assets. There are other MPs, ministers and officials of the legislating institutions here at this seminar. I would like to ask the other MPs and ministers if they are also equally committed to this issue.*

A: Shanta Manabi, Member of Parliament:

I really welcome this idea. A detailed disclosure registration system must be put in place.

A: Jaya Prakash Prasad Gupta, Member of Parliament:

Corruption is prevalent in our society. However, we undermine the issue by only focusing on MPs and spreading the belief that MPs are the main cause for corruption. Although there is a widespread demand for MPs to declare their property, the truth is that MPs have already done so through their political parties.

A: Campbell-Savours:

In the election process in the United Kingdom, the voter votes for the individual and only then his or her party. In essence, by voting for my name, they vote me to power, making me accountable. It is my relationship with the constituents, not the relationship between me and the party, that the public votes for. Therefore, introducing names on a ballot paper makes MPs more accountable. In this respect, just providing information to the party about personal assets does not suffice, as the public is unaware of such disclosures. When the public has access to my individual information, it gives them faith in the political party, the MPs and parliament.

Dr. Birendra Prasad Mishra, Election Commissioner:

Comment: We talk of a code of conduct, but I do not think imposing a code of conduct alone will solve this problem. There have been only six or seven years of democracy in this country. The main issue is the character of individuals. First we should develop ourselves. No code of conduct will work unless each individual is responsible for his or her appointed tasks.

Campbell-Savours:

Comment: A code of conduct is a beginning. It acts as a benchmark to begin a process of building a new approach to public administration. It gives people something to be measured against.

Korwin:

Comment: Since everybody's integrity level is not the same, a code of conduct is something that all will be accountable to, as all will be bound by the same rules.

Mr. Padam Lal Shrestha, President, Team Nepal:

We talked about three different codes of conduct. I think if we start from these three, it will carry the process of development further. I think this would be a very strategic move. MPs are here and we can expect them to act as torch bearers and commit to this process.

The Hon. Hira Dutta Bhatta, Member of Parliament:

By providing uniform opportunities and resources, civil servants will not be tempted to indulge in malpractice. By providing better opportunities in terms of salaries and benefits, there will be less likelihood of being tempted into corrupt practices.

Q: Khagraj Adhikari, Member of Parliament:

I have two questions for our international guests.

- 1) *What facilities are given in the United Kingdom, United States and South Africa for MPs? I get Rs7,100 a month and I give Rs4,000 a month, to my party, and Rs1,000 per month to my party's district committee. We have to rent residences in Kathmandu, and we are having a hard time just surviving. What's the situation in your countries?*
- 2) *Many of the MPs are clean and have not taken a penny for medicine or anything else. Nonetheless, the media write anything that suits them. Can we charge them for this? They slander us. How should we prevent this problem?*

A: Campbell-Savours:

As an MP in the UK, I am provided with a secretary and a research assistant. I also have an allowance for living in London which is enough to live on. Additionally, I get a travel allowance to go back and forth to my constituency, and I contribute one percent of my income to my party. On the question of being criticized in the press, that is the price we pay for the honor of being a member of parliament! Yes, we are criticized by the media. But we should keep in mind that they often criticize because there is something somewhere to criticize.

A: Mavuso:

In South Africa, MPs must contribute 10 percent of their salaries to their respective political parties, and a limited amount to the national and provincial kitties. Facilities include a research assistant,

3,000 Rand (US\$476), a fully taxable vehicle allowance and a limited number of train tickets for travel between Johannesburg and their respective constituencies. As for the media, I know how fast they probe. The media knew about my president's marriage before I did!

A: Korwin:

American senators are not provided any housing allowance but are provided limited perks, such as free parking at the capital's airport, a very valuable perk indeed!

The Hon. Khagraj Adhikari, Member of Parliament:

It is a misconception that all MPs enjoy great benefits that accrue from their powerful positions. Not all MPs are corrupt and it is unfair to generalize.

The Hon. Bhim Bahadur Tamang, Member of Parliament:

Most of the MPs struggled long and hard for the establishment of democracy, and are guided by spiritual values. Real political activists are always worried about fulfilling their commitments to the people. I was imprisoned for eight years. I suffered for 35 years. Most MPs have had this experience. But now a new kind of cadre is on the rise in all political parties. We need a code of conduct to control those who are opportunists. I am confident that this can happen soon.

Mr. Purna Man Shakya, Constitutional Lawyer:

Q. Although MPs have disclosed their assets, there exists no institution capable of investigating the truthfulness of these statements. Also, when an MP's term expires, there is no auditing of his or her assets. What are the provisions concerning these issues in your countries?

A: Campbell-Savours:

The press may probe disclosures. And that is how the truthfulness of these disclosures are verified. MPs have to fill out the disclosure form yearly. And differences can be seen between the first year's and second year's statements. If an MP lies, he or she is accused of contempt of parliament and is subject to penalties, including the loss of his or her parliamentary seat.

A: Korwin:

In the United States, a regular system exists in which the House and Senate Review Committee reviews the reports and statements when an individual enters and leaves office. In case of perjury, the person is liable for criminal prosecution.

The Hon. Hiranyal Shrestha, Member of Parliament:

MPs are products of their societies and therefore exhibit the strengths and weaknesses of the society. However, given the current political instability, it is also business people, multi-nationals, as well as a number of international development agencies, who share the blame. In order to achieve a healthy, clean society, full disclosure accompanied by the existence of a cross-checking mechanism is important. For example, MPs are being bought and sold. MPs are even kept in hotels before important votes in parliament to prevent them from being corrupted. Such accommodations are sponsored by business people. There must be a law to control such unethical things.

Ms. Ambika Shrestha, Former Chair, Transparency International:

Despite allegations made by various MPs accusing business people of fueling corruption, as a business person I would like to remind them that it takes two hands to clap.

Mr. Krishna Hachhethu, Lecturer in Political Science, Tribhuvan University:

One of the problems Nepal is facing is the lack of direct links between the State and the parties. Parties are not subject to audit. The relationship between MPs and their constituents, while close, is often improper. We need a party law.

Mr. Som Bahadur Thapa, Secretary, Public Accounts Committee:

Comment: A provision exists where foreign aid should be accounted for in the budget along with the approved program to be financed. However, although the Ministry of Finance publicly announces the amount of assistance received, there is no accounting of the financed activities, which makes it difficult for the Auditor General's Office to conduct an audit. Moreover, even donor agencies do not make their systems transparent.

Korwin:

Comment: It is difficult to subject donor groups to transparency issues. Independent accounting with these groups is a possible alternative. Nevertheless, recently an act has been passed in the United States wherein all American overseas development assistance is required to be accounted for.

Mr. Ram Lal Shrestha, Officer, Parliament Secretariat:

Comment: Given the difficulty in enforcing the rule of law, how far can we be certain that implementing a code of conduct is the solution? Political will is a must. We have examples of MPs violating laws themselves everyday.

The Rt. Hon. Shanta Bahadur Rai, Chairman, Public Service Commission:

I thank NDI for this wonderful opportunity. The current discussion and debate of this critical issue is a positive sign. If political will and administration are strong, the country will experience the fruits of economic growth, development and democracy. Bureaucrats and politicians play a crucial role in building a healthy administration. I therefore propose that both bureaucrats and ministers receive orientation on their roles and responsibilities soon after their appointments or oaths. Ministers should have a clearer understanding of the role of the civil service.

The Hon. Survendra Nath Shukla, Member of Parliament, Chief Whip, RPP:

Although a code of conduct is not a panacea to the current problem of corruption, it is the beginning of a positive process of seeking solutions. An effective code of conduct, along with social awareness and public commitment is the need of the hour. In our society, which is becoming increasingly individualistic, there is a social sanction for quick money-making activities, irrespective of motives. Voter education is needed, too. I propose building effective mechanisms to redress these problems.

Closing Remarks:

The Hon. Daman Nath Dhungana, Former Speaker of the House of Representatives:

Dhungana expressed his gratitude to the three NDI international resource persons for sharing their knowledge and experience. Examining the term, ethics, and its presence in the current political jargon, he noted that ethics essentially implies conduct. In the context of the state as a moral entity, the rule of law is an expression of morality. Dhungana emphasized that the crux of the matter is the importance of making all the systems of democracy such as the Constitution, constitutional bodies, and MPs function to meet the needs of the people. Given that Nepal is one of the world's poorest nations, Dhungana remarked that it is particularly sad that so many individuals do unethical things in Nepal.

Dhungana stressed that developing a code of conduct was something that demands serious consideration, for although it is not the solution, it is a recognition of the problem. However, he cautioned that the adoption of a code of conduct must be simultaneously accompanied by strict enforcement mechanisms in order for the code to be successfully implemented. He further urged MPs, as the custodians of the Nepali people's aspirations, to set exemplary standards in ethical behavior and practice.

As unfortunate compromises made by political leaders have weakened political will, Dhungana advocated raising the awareness of MPs and the public. To achieve this, he emphasized the importance of the two Es: Education and strong Electoral procedures, as effective means to combat corruption. Dhungana stressed that educating political leaders is essential. He also made the following recommendations:

- free debate of all issues concerning Nepalese society;
- right of the public to information;
- strong media;
- proper attention to human rights;
- disclosure of funding sources for political parties;
- fielding of qualified candidates for public office;
- autonomy in the functioning of constitutional bodies in matters pertaining to recruitment; and
- people-oriented political parties.

In conclusion, Dhungana thanked the three members of NDI's delegation as well as NDI for organizing the seminar.

APPENDIX A

**The Role of Government, Parliament, and Independent Constitutional Bodies in
Establishing an Ethics Regime: Problems and Necessary Reforms**

One Day Seminar Agenda, August 1, 1998

8:30 Registration

9:00 Inaugural Session

Chief Guest: The Hon. Dr. Ram Sharan Mahat, Finance Minister

Chair: The Hon. Radha Raman Upadhayay, Former Chief
Commissioner of the Commission for the Investigation for
Abuse of Authority (CIAA)

- Maryam Montague, NDI Representative: (welcome, introduction of NDI, introduction of the delegates)
- The Hon. Dale Campbell-Savours, Leader of NDI Ethics Delegation, MP of the United Kingdom (purpose of the ethics delegation, mission and objectives of the seminar)
- Remarks from the Chief Guest
- Concluding remarks from the Chair

9:45 Plenary Session One: Findings and Recommendations of the NDI Ethics Delegation

Chair: The Hon. Radha Raman Upadhayay, Former Chief
Commissioner of the Commission for the Investigation for
Abuse of Authority (CIAA)

- The Hon. Dale Campbell-Savours

Question and Answer Period

- All international delegates respond to questions

10:30 Inaugural Tea

10:45 Plenary Session Two: The Role of the Constitutional Bodies in Combating Corruption: Problems and Necessary Reforms

Chair: The Hon. Ram Prasad Shrestha, Former CIAA Chief

Moderator: The Hon. Dale Campbell-Savours

- The Rt. Hon. Bishnu Bahadur K.C., Chief Auditor General
- The Hon. Mahdavi Dutta Bhatta, CIAA Commissioner

Question and Answer Period

11:30 **Plenary Session Three: The Role of the Government in Establishing an Ethics Regime: Problems and Necessary Reforms**

Chair: Bharat Dhital, Former Vice Chairman, National Planning Commission

Moderator: Michael Korwin

- The Rt. Hon. Badri Bahadur Karki, Attorney General
- Michael Korwin, US Office of Government Ethics
- Other delegates give brief comments

Question and Answer Period (Note: tea served at table)

12:45 **Lunch**

1:45 **Plenary Session Four: The Role of the Parliament in Promoting Parliamentary and Executive Branch Ethics: Problems and Necessary Reforms**

Chair: The Hon. Daman Nath Dhungana, Former Speaker of the House of Representatives

Moderator: The Hon. Vusumuzi Mavuso, Member of the Gauteng Provincial Parliament in South Africa

- The Hon. Deepak Prakash Baskota, MP and Former State Minister
- The Hon. Dale Campbell-Savours
- The Hon. Vusumuzi Mavuso

Question and Answer Period

3:00 **Open Discussion**

5:30 **Closing Remarks**

Chair: Mr. Daman Nath Dhunghana, Former Speaker of the Parliament, President of Transparency International.

APPENDIX B

**Recommendations of the Ethics Delegation of the National Democratic Institute for
International Affairs (NDI)**

August 1, 1998

The Hon. Dale Campbell-Savours

I am speaking on behalf of the entire NDI delegation when I say that the task of making recommendations has been difficult for us because we did not wish to be seen as interfering in the internal affairs of the Kingdom of Nepal. We present our recommendations in the hope of wishing to further a debate which has already started. We have been made repeatedly aware by almost all the groups that we met, including members of the public, of the need for far greater disclosure and transparency in the whole process of public administration and governance in Nepal. All our recommendations are characterized by the belief that whatever structures exist, they should provide for full disclosure and transparency against a background of a free press. These principles are to be found at the heart of any vibrant and successful democracy. Without these principles, true democracy can never survive.

It is in that spirit that we make the following suggestions and hope that they are of use during the course of today's seminar and afterwards. A copy of these recommendations will be handed out after this presentation.

Election Arrangements

During our time in Nepal, we met with the Election Commission and were impressed by their decision to introduce an election code of conduct that is binding. We were also interested to hear that a bill is being drafted to regulate political parties, which we are told will have a significant impact on the election process. We feel it is important to emphasize the necessity of transparent accounts for political parties and election candidates. We have been repeatedly informed of public concerns over the private funding arrangements of political parties and election candidates here in Nepal. In our experience, the public are always entitled to know which individuals and corporations are paying monies to which political parties and which candidates.

We welcome the section of the election code of conduct on election expenditure. We believe that a firm ceiling on election expenses should be set for all political parties and all candidates. We believe that with enforcement by the Election Commission, this will assist the process of free and fair elections in Nepal.

We also have sympathy with the view that election officers at every level throughout the country should feel, and be, far more accountable to the Election Commission which, in principle, is responsible for their activities.

It is our own belief that State funding of election campaigns is a noble objective but may not be practical at the moment due to financial constraints of the government.

Appointment to the Independent Constitutional Bodies

We were repeatedly told by representatives of the organizations that we met of concerns over the process of public appointments by the Constitutional Council, in particular those to the independent constitutional bodies. We recognize the importance of the Constitutional Council and the reasons for its existence. We do, however, believe that further openness and accountability in the appointment process should be seriously considered. We propose that appointments made by the Constitutional Council are considered by parliament in public session. In both the American and South African systems, the committees of the legislatures are required to confirm or reject nominees. In the UK, appointments can be the subject of immense public debate both within and outside parliament. We believe that if the Nepali legislature was involved in confirmation or in full parliamentary scrutiny of appointments, much public criticism would be appeased.

Permanent Staff Requirements of the Independent Constitutional Bodies

We were disturbed to learn in the course of discussions with civil servants in the constitutional bodies that some civil servants felt it was preferable to remain a civil servant within a government department rather than serving in a constitutional body. We believe that the terms, conditions and promotion prospects of people working in government departments should not be detrimentally affected by their transfer to the constitutional bodies, particularly the CIAA, which we regard as extremely important. In principle we believe that short term secondments of civil servants to both government and constitutional bodies, except where there is a requirement for special skills, can be damaging to the culture of public service.

We recommend that permanent staff should be assigned to these constitutional bodies, so as to ensure their effectiveness, efficiency and independence.

Prosecution of Corruption Cases

During the course of a number of meetings, reference has been made to the inability of the prosecuting authorities to successfully prosecute in public corruption cases. A number of explanations have been given to us as to why this is so. These explanations include the following. Firstly, the definitions of the words bribery and corruption are said to be insufficiently defined in the law, making it difficult to prove the case for the prosecution in courts. We were also informed that there was substantial argument surrounding the issue of burden of proof. We note that in the United Kingdom, in the case of civil cases, the burden of proof is "*on the balance of probabilities*". In criminal cases, the burden is much higher; conviction is not possible unless a jury is satisfied "*beyond reasonable doubt*". Both the South African and American systems are very similar, with

respect to the issue of burden of proof. We would hope that there was no departure from this principle. We were also informed that the CIAA lacks forensic capability and adequate resources in terms of staff trained to international or even other Nepali service standards. We believe that these deficiencies must be addressed as a matter of urgency, as the credibility of this extremely important body is being questioned. The CIAA is charged with the responsibility of maintaining confidence in the senior echelons of government. This responsibility cannot be perceived to be undermined.

It was suggested to us that one of the difficulties in prosecuting corruption cases was the lack of a suitable court where such complicated cases could be heard and understood. We do not think it is appropriate for us to comment on the quality of the judicial system in Nepal. Indeed, it would be wrong for us to do so. However, in other countries, particularly in the United Kingdom, the idea of special courts to deal with cases of public corruption is being considered. And it might well be that, while the creation of special courts across the country would be impractical, for reasons including financial, it might be possible to introduce far more specialist training for a group of judges in this particularly difficult area of the law and consideration of evidence.

The role of the Special Police Department (SPD) is not clearly defined. We are uneasy about drawing conclusions about the relationship of the SPD and other agencies on the basis of the limited information that we took.

Codes of Conduct

When assessing the rules for the parliament, the detail in the written constitution, and the terms of the anti-corruption legislation, we were struck by how comprehensively these documents have been framed to deal with any difficulties that might arise, both in parliament and the courts. We did however note that, unlike almost all other major legislatures, neither the law, the constitution, nor the rules for parliament provided for codes of conduct. These codes of conduct are used in other legislatures to consolidate law in a way that enables the individual to fully understand his or her obligations and responsibilities to public service and to the institutions to which they belong. Codes of conduct are often presented in the form of a handbook. This is one (hold up). Codes of conduct are not new to Nepal. I have one here produced by the Nepali Election Commission. It reads: *"It shall be the duty of His Majesty's Government, officials of all governmental and semi-governmental entities, political parties, the candidates of the political parties, independent candidates, to abide by this code of conduct."*

We believe that the principle of the code of conduct should apply in three areas of public administration in Nepal: to members of parliament, to government ministers, and to the civil service, including the independent constitutional bodies. I will take each one separately. First, the civil service.

The Civil Service Code of Conduct

In your packet you will find an example of a civil service code of conduct. A code of conduct for the civil service includes the basic obligations of public service. These obligations are set forth in general principles that apply to every employee and form the basis for their standards of conduct. Principles that should be considered include: 1) the public servants should remain loyal to the Constitution and place law and ethical principle above private gain; 2) employees should not hold financial interests that conflict with the performance of duty; 3) employees should not engage in financial transactions using non-public information; 4) employees should not use public office for private gain; 5) employees should not engage in outside employment and activities that conflict with their public duties; 6) employees should act impartially and should not show preference; 7) employees should not make promises on behalf of the government for which they are not authorized; 8) employees should disclose waste, fraud, abuse, and corruption to the appropriate authority; and 9) on leaving government service, employees should not disclose information involving matters in which they were involved while in government service.

You will recognize many of these principles. They are already in Nepal's anti-corruption legislation. All we are suggesting is that these principles should be included in a separate code of conduct, written in plain language, that every civil servant in the land clearly understands. There is clearly an issue of the enforcement of such a code of conduct should it be introduced. Clearly, the Public Service Commission would have a role to play. We do however believe that a fully reformed CIAA with all the necessary powers and resources would have a role to play in securing investigations in the case of major breaches of the code of conduct take place.

Ministerial Code of Conduct

It is the practice of other governments to apply codes of conducts in the case of ministers. These codes fall under the general principle that ministers should arrange their private affairs so that they do not conflict with their public duties. In the United Kingdom, ministers are not allowed to retain directorships and direct shareholdings in private companies. Any private interests that they retain, unless land and property, have to be held at arms length in independent trusts, and if any changes to their financial arrangements appear in any way to breach the principles in the code of conduct for ministers, they have to be referred to the Cabinet Secretary (this would be the Chief Secretary of the Council of Ministers in Nepal). Ministers are required to be avoid speculative investments and price sensitive areas. There are severe restrictions on gifts and hospitality. You will find a copy of the UK's code of conduct for ministers included in your packet.

Code of Conduct for Members of Parliament (MPs)

I want to raise the issue of a code of conduct for MPs. We regard this as an extremely important issue. Almost all legislatures throughout the world now insist that MPs are tightly regulated in terms of disclosure of their financial interests. When I say disclosure, I mean public disclosure - complete and total transparency. In your packet, you will find the rules as they apply to a number of countries. And in later sessions today, we will have the opportunity of considering them. I will, however, at this stage, say a few words on the British system, which I personally believe would work extremely effectively here in Nepal. It has four broad characteristics. First, a requirement to register all financial interests and benefits. These include directorships of companies, arrangements for employment outside of parliament, source of election funds, gifts, overseas travel, land and property, and shareholdings of over one percent of an issue's share capital. This registration is required annually, which means that an MP's assets are registered when they arrive in parliament and when they leave. This registration system also applies to ministers who are members of parliament. The second principle requires that an MP in certain circumstances reveals in a written and registered employment agreement his or her income in the event that he or she earns money outside parliament. The third principle deals with conflict of interest in parliamentary committees, which you already have in your own parliamentary rules. The fourth principle deals with restrictions on the right to lobby ministers and speak in parliament when an MP has a registered interest. This whole regulatory regime is policed and enforced by the Commissioner of Standards and Privileges, who is an officer of parliament but who is totally independent and can not be manipulated politically. He reports to our ethics committee, which we call the Standards and Privileges Committee. His reports are published separately. This system could be adapted to conditions in Nepal, and in the event that the CIAA had been reformed in the way that we have suggested, we believe that it could carry out the role of the Commission for Standards and Privileges through a designated official who would report to the Nepalese Ethics or Privileges Committee. We found in Britain that you can not rely on MPs to investigate themselves. They invariably act politically and allow themselves to be influenced by political considerations. That is why the British system is built in this way.

The implementation of the codes of conduct that we have outlined would be substantially reinforced in the event that training arrangements were introduced to ensure maximum compliance. It might be that the donors would want to consider whether they might be prepared to help in the implementation of this recommendation.

We have suggested the introduction of these three more codes of conduct to Nepal's system of governance. We offer them for consideration.

The Role of the Parliamentary Committees in Holding the Executive to Account

We noticed under rule no. 191 of the rules of the House of Representatives that there are very substantial powers available to the Foreign and Human Rights Committee, later amended to the State Affairs Committee, to consider the reports of the Attorney General and the Commission for the Investigation of Abuse of Authority (CIAA). These powers include: 1) the right to consider the merits of investigations and whether they are carried out satisfactorily; 2) the right to consider whether the preventative role of the CIAA is being administered effectively; and 3) the power to recommend methods to improve the effectiveness of the way the CIAA operates. We were surprised to be told that neither the Attorney General or the CIAA regularly gave evidence to the appropriate parliamentary committees. In other parliaments and legislatures, these bodies would frequently be required to give evidence to these committees. In the American system, the committees are very powerful and sometimes meet for whole weeks when they are holding their public bodies to account, taking evidence from NGOs, and examining witnesses more generally. We would like to suggest that members of parliament seriously consider the frequency of such meetings in other legislatures around the world and the benefits that they bring to the whole process of transparency and effectiveness of government departments and agencies. We can not stress strongly enough the importance of these select committee arrangements in other legislatures.

Parliamentary Research and Information Center

We were much impressed by suggestion of His Excellency the Speaker that a research and information center would be of great use to MPs in the carrying out of their duties. We believe that such a parliamentary center should employ people of high academic ability and that it should have two functions. First, to carry out detailed research, free of political bias, into government publications, including bills and other consultation papers. Second, the center would be responsible for the compiling of research from sources internationally and domestically, in particular comparative research. Finally, we believe the role of a research and information center should be not only to provide written briefings to MPs, but also to provide oral briefings when MPs feel that they are necessary. We would hope that the donor nations are prepared to join with us in supporting this initiative, and that an early start can be made to its establishment.

Many of the issues that we, as the NDI delegation, have raised during the course of these recommendations this morning will be the subject of discussion during the seminar during the course of day. We hope that these suggestions are helpful.

APPENDIX C

The Role of Constitutional Bodies in the Struggle Against Corruption

The Rt. Hon. Bishnu Bahadur K.C., Auditor General

I am pleased to have an opportunity to express my views at this workshop on the issue of the role of constitutional bodies in the struggle against corruption. In the present situation in which public interest and concern about economic irregularities and corruption are growing, a workshop on this subject has special significance. I expect this workshop to offer meaningful suggestions for steps to be taken by the constitutional bodies in the future. I will discuss the role of the Auditor-General, and I wish to express my gratitude toward the organizers of this workshop for providing me with this opportunity to speak.

Corruption is a complicated problem, one which is becoming more complicated every day. It has become a major topic of discussion. Concern is being expressed about the negative impact of corruption on public life. Despite this, efforts made thus far to prevent corruption have failed to bear fruit, and in several fields they have begun to show a negative impact. As a result, questions are being raised about the glory and credibility of public institutions, and public trust in them is declining. If we fail to do something to rectify this situation, it will become more complicated and difficult to tackle later. Corruption has affected the economic sector, and has also caused various problems in social, political and administrative fields. It is essential to reach a national consensus for the prevention of corruption. It is also essential to boycott corrupt people and take the strongest possible actions against them. If we succeed in taking strong steps to prevent corruption, half of the problems facing the nation today will automatically be resolved. There will be a significant increase in revenue. The returns of our expenditure will grow by two or three times. Our dependence on foreign loans and grants will decline. The pace of our development will grow, and the people will be able to enjoy their fruits.

The Constitution of the Kingdom of Nepal has established the Auditor-General's Office as the supreme auditing body of the country. This body was established at the same time, significantly, as the first elected democratic government in 1959. The 1976 amendment of the Constitution of Nepal can be taken as an effort to encompass the modern norms of audit and extend the jurisdiction of the Auditor-General's Office.

The main objective of this Office is to present timely and meaningful reports to parliament on the utilization of public resources. Independent and impartial audit and evaluation reports presented by the Auditor-General help to fulfill and promote public accountability relating to the utilization of public resources. Audits and evaluations made by this Office analyze whether or not income and expenditures have been made in accordance with current laws and rules. They also determine whether or not such transactions reflect economy, efficiency, effectiveness and justification.

The scope of government audit is widening. The concept of functional audit, which identifies the problems inherent in the working style of the management and helps to promote austerity, efficiency and effectiveness, has added a new dimension. We are trying to further

extend its use, but functional audit requires the cooperation of the management under investigation. Because internal control and audit systems are weak, the Auditor-General has to devote most of his time to the audit of regularities. As a result, functional audit is only used to a limited extent.

Even though public audit covers extensive areas, these can be described as follows:

- to manage government property in an economic and efficient manner;
- to recommend methods of improving service;
- to ensure compliance with current laws and rules;
- to promote accountability and transparency in public activities; and
- to bring about transparency in financial, administrative and management working systems.

The Auditor-General can contribute to improved control, accountability and management in the following manner:

- by helping to identify opportunities for checking inefficiency and losses in the mobilization of public resources;
- by making officials aware of the need to make the working system appropriate and legal;
- by suggesting measures to be adopted which should bring about an improvement in policies, procedures and the structure of an organization;
- by citing examples which stress the fact that it is essential to make the system of accountability in public administration efficient and effective;
- by identifying areas in the jurisdiction of specified officials or organizations which need to be extended;
- by identifying obstacles which stand in the way of proper fulfillment of the objectives of an organization, and showing ways to improve policies, procedures and operations to remove such obstacles;
- by supplying information about the impact of existing weaknesses in unit targets and working systems on the fulfillment of the long-term objectives of any organization under scrutiny; and
- by supplying the means to evaluate the effectiveness of an organization's administration.

Detection of cases of corruption is not the main objective of audit, but this Office helps to control corruption by ensuring effective use of public property and by promoting morality, impartiality, purity, and effectiveness. We feel that the help provided by the Office to promote public accountability and good governance are also proving useful from the viewpoint of preventing corruption. It renders meaningful contributions in the prevention of corruption by identifying mistakes in economic transactions and accounting systems. The role of the Auditor-General can thus be evaluated from the following two viewpoints:

- 1. Developing and Introducing Preventive Measures**

We believe that strong financial administration is the foundation of a clean administration. An auditor not only looks into whether or not resources have been misused or excessively used, but also offers appropriate suggestions for controlling such misuse or excessive use. In this context, the role of the auditor is reformative in nature.

An auditor evaluates managerial efficiency as well as mistakes in managerial controls. Where there is any possibility of an arbitrary use of any public property, it offers suggestions for checking such use. Audit reports submitted by the Auditor-General are focused mainly on financial accountability and reforms in the aspects of transparency and consolidation of management.

An auditor offers his suggestions with the following objectives:

- to control fraudulent and corrupt activities;
- to develop purity and honesty in public administration;
- to control arbitrary use of administrative and managerial powers;
- to promote the efficiency of public bodies; and
- to encourage good governance through transparency and accountability in the management of public property.

2. Taking Curative Measures

In his preliminary report, the Auditor-General mentions details of unauthorized uses of public property through arbitrary and unnecessary expenditure. The auditor evaluates the management of public property from the viewpoints of regularity, economy, efficiency, effectiveness and justification. Detailed information relating to activities which are opposed to current law is vital if administrative and legal actions are to be taken against officers who make mistakes. Such information is also important to bring about reforms in the administrative working system.

It is neither practical nor possible to conduct a detailed audit of all transactions. An audit conducted on a sample basis over the past three years revealed that Rs967.5 million should have been released in the fields of budget and revenue. Of that amount, in 1994-95, only Rs38.2 million was released, while in 1996-97 the amount increased to Rs187.3 million. Thus Rs348.8 million has been released during the past three years.

It is estimated that in 1997-98, the amount released and the amount to be released will exceed Rs1000 million.

Instead of taking action for releasing such amounts only after they are pointed out by the auditor, it is essential to control the practice of making or

taking excess payments under various budget heads, and taking lesser payments than due in the revenue side. In the same way, instead of only releasing amounts from those who pay or accept more or less than the due amount, it is essential to subject them to other forms to action and penalties. It is not enough for the overall budget to be followed: smaller amounts within the budget must also be properly accounted for.

As there are possibilities for leakage in government revenue and expenditure, it has become urgent to act at the national level to prevent such leakages. We need to be serious about ensuring compliance with current laws and rules.

Following the failure to audit all accounts and records as of fiscal year 1967-68, an Audit Commission was formed in 1968. Because no effective action was taken to clear the irregularities detected by the Auditor-General until 1982-83, all irregularities were cleared or written off by forming an Irregularities Clearance Committee in 1976. Likewise, when no adequate effort was made for to clear the irregularities detected during the period between 1983-84 and 1990-91, a Special Committee for Clearing Off Irregularities was formed in 1996. This Committee is still functioning. If this pattern continues, we will have to form yet another Committee to clear off irregularities detected after 1990-91. It is, therefore, essential to consolidate the system of taking action according to current law.

Notwithstanding the various problems and challenges facing it at present, the Office of the Auditor-General needs to focus attention on the following points in order to make the role of the Auditor-General effective, and thus promote accountability, transparency, austerity, efficiency and effectiveness in public financial transactions:

- the development and training of manpower, and the expansion of opportunities for career development;
- timely reforms and amendments in laws and rules;
- encouraging a change in the attitude that action should be initiated only after the detection of irregularities;
- the consolidation of internal control and audit systems. If this happens, the Auditor-General's Office can then lay more emphasis on functional audit;
- the finalization of evaluation indicators in order to make evaluation clear and meaningful;
- the consolidation of administrative control and inspection systems;
- furnishing the particulars needed for audit, as well as replies to questions asked in the course of audit, in good time;
- initiating necessary action by taking seriously the issues raised after audit;
- the supply of budgets as necessary;
- making arrangements for adequate incentives and rewards to auditors; and
- granting some degree of autonomy to chiefs of the constitutional bodies in respect to manpower (the number of approved posts).

It should be remembered that the auditing institution and the institution having its

accounts and records audited are not rivals. Audit always helps the management. Public bodies are therefore requested to help create a cooperative attitude: the effectiveness of audit will grow if they keep this in mind.

The Auditor-General has given the highest priority to the issue of keeping his image clean in Nepali society. The contribution of the government as well as all associate institutions is requested in this task. Pointing out the fact that the role of the reports of the Auditor-General will continue to be undermined until the legislature and the government attach adequate significance to the particulars mentioned in them, and with the belief that additional cooperation will be available in this connection in the future, I conclude my opinion here.

The Role of Constitutional Bodies in the Prevention of Corruption: Problems and Necessary Reforms

The Hon. Madhav Dutta Bhatta
Commissioner
Commission for Investigation Into Abuse of Authority

Introduction

The 1990 Constitution of the Kingdom of Nepal has accepted the concept of rule of law as its basic principle. Good governance is needed to guarantee the rule of law. To achieve good governance, a clean administration must be established, and the activities of all organs of the government must conform to the Constitution and the law. Where there is malpractice in any body, or if the government fails to be responsible, it will not be possible to establish an egalitarian society, and the people will be disillusioned with the democratic system. This may affect the overall development of the country itself. Accordingly, a responsible government and good governance are always expected. It is with this in mind that arrangements have been made to set up various constitutional bodies which can regularly monitor whether or not the activities of different organs of the government conform to the Constitution and the law and whether or not the law is being enforced properly and effectively, and then inform the sovereign people accordingly.

In most developing countries, corruption is found to be the main obstacle on the path towards establishing good governance. Nepal too is suffering greatly from this social disease. Economic development of the country has not been able to gain momentum, development projects have failed to achieve the expected goals and human resources and assistance received from various friendly countries and international organizations have failed to be utilized properly. People have not been able to fulfill even their basic needs, and a major portion of the country's population is being compelled to live below the poverty line, because of rampant corruption in governmental and non-governmental sectors.

Most cases of corruption in Nepal are committed by persons holding public posts. A Commission for Investigation Into Abuse of Authority (CIAA) has been established as a constitutional body in order to conduct inquiries and investigations into cases of improper actions and corruption committed by persons holding public posts. This Commission is the only official body authorized to conduct inquiries and investigations and file lawsuits in order to prevent corruption. The lack of necessary legal provisions, physical facilities, efficient manpower, etc. are problems when conducting investigations into a sensitive and difficult white-collar crime such as corruption, and having the guilty punished by court. Various reform measures are accordingly needed to resolve these problems.

Constitutional Bodies for Prevention of Corruption

Corruption is a social disease, as well as an intellectual crime. Its nature and forms are highly complex. It grows if the administration of the government is not clean and transparent,

and its main cause is maladministration: it is difficult to commit corruption where there is good governance.

Two types of actions are useful in the control of corruption:

- (1) Preventive actions.
- (2) Control or curative actions.

There are different forms of corruption in Nepal. For example:

- in development and construction activities;
- in the procurement of goods;
- in the collection of revenue;
- while issuing government licenses or permits, or while granting facilities;
- while issuing citizenship certificates, passports, visas, etc;
- while transferring, promoting or posting employees;
- while registering or transferring immovable property;
- in government-owned services, real estates, stock-markets, etc;
- while selling government-owned property, or government-owned public institutions to the private sector;
- in judicial administration;
- in the police and the army services and purchase of arms and ammunition for security purposes; and
- committed by high-ranking employees by abusing their authority.

All of these forms of corruption are serious and they pervade all levels of an activity. Taking corruption relating to construction activities as an example, corruption may occur in the following ways:

- irregularities at the time of preparing cost estimates for construction works;
- irregularities at the time of submitting tenders for contract agreements;
- lowering the standard of work;
- claims of having completed more work than what has actually been completed;
- the practice of contractors colluding among themselves and entering into an agreement before submitting tenders so that only the minimum number of tenders needed are submitted by specified contractors at higher rates, thus preventing competition;
- claims for excess payment by citing field-related problems or price rises;
- unnecessary lengthening of project periods;
- corruption committed through consultancy; and
- corruption committed by citing various problems in connection with the same work and claiming to have undertaken repair and maintenance works.

In view of the diverse types of corruption, it will be most effective to control the main source of corruption by establishing a clean administration which functions in a transparent

manner. The current practice whereby a single body initiate investigations into allegations of corruption and then punishes the guilty through court proceedings is very inefficient, because evidence becomes harder to find as time passes.

The various constitutional bodies can play significant roles in monitoring, controlling and acting as watch dogs to detect possible cases of corruption. The Auditor-General of the Kingdom of Nepal can control corruption by auditing the accounts and records of all governmental agencies to check their regularity, economy, efficiency, effectiveness and justification, while the Attorney-General can maintain a watch on the sanction and disbursement of funds. The Election Commission can control corruption by arranging for a code of conduct which ensures the election of true and appropriate public representatives. The Public Service Commission and other constitutional bodies can contribute from their respective fields to the establishment of good governance, thus controlling corruption through preventive measures.

Finally, if the CIAA can make its inquiries and investigations aimed at controlling corruption more effective, and if the judicial administration of the country also brings about a reform in the traditional concept of justice and demonstrates its creativity in matters such as corruption, this will also prove helpful.

The Commission for Investigation into Abuse of Authority, and Control of Corruption

Efforts to work on an institutional basis against corruption were initiated in Nepal long ago, but until 1950 economic activity was limited and there was little opportunity for economic crimes. Most of the economic activities were controlled by the government and an office called the *Kumari Chok* was established in order to examine whether or not the funds taken or disbursed by government officials were regular, and to have such officials submit the accounts and records of funds disbursed by them. That office was thus carrying out a type of audit.

After the establishment of democracy in 1950, the 1952 Anti-Corruption Act was promulgated. Thereafter, the 1957 National Servants (Prevention of Corruption) Act, and the 1958 National Servants (Prevention of Corruption) (Amendment) Act were promulgated. In 1960, all these acts were repealed, and the 1960 Anti-Corruption Act was promulgated. This act is still in force with amendments made from time to time.

The second amendment to the 1962 Constitution of Nepal provided for the formation of a Commission for Prevention of Abuse of Authority as a constitutional body responsible for the prevention of corruption. The Commission was to be established and its functions and duties regulated through rules framed by His Majesty. Accordingly, the Commission was established following the issue of the 1977 Commission for Prevention of Abuse of Authority Rules. Provisions had thus been made empowering the Commission to conduct inquiries and investigations into complaints of corruption and file lawsuits. These provisions were, however, opposed to the principles of natural justice, as they did not take into account the rights of the accused. Accordingly, the 1990 Constitution of the Kingdom of Nepal established the CIAA as the successor of the previous Commission.

The CIAA was formed under Article 97 of the Constitution of the Kingdom of Nepal. Provisions have been made to appoint a Chief Commissioner and a number of other Commissioners. The Commissioners are to be appointed by His Majesty on the recommendation of the Constitutional Council. At present, the Chief Commissioner and three other Commissioners work in the Commission. They have tenure for six years from the date of their appointment. Constitutional provisions have also been made to remove them only according to the criteria and procedure prescribed for the purpose by the Justices of the Supreme Court. Under these provisions, their jobs have been made secure: they may be removed from their post only if a resolution to remove them (on the charge of bad conduct, inefficiency or failure to discharge the duties of their post in an honest manner), is approved by two-thirds of the total number of members of the House of Representatives, and then by His Majesty. Provisions concerning the functions, duties and powers of the Commission have been made in Article 98 of the Constitution. Functions to be performed by the Commission have been prescribed in the Constitution, the 1991 Commission for Investigation into Abuse of Authority Act, and the relevant rules. Its main functions include the following:

- to conduct inquiries and investigations, or make arrangements for doing so, in connection with improper actions or corruption committed through abuse of authority by persons holding public posts;
- to write to the appropriate authority to warn or take departmental or other action against any person who is found in the course of inquiries and investigations to have committed an improper action and thus abused his authority;
- to file cases, or make arrangements for doing so, in the authorized court, against any person who is found in the course of inquiries and investigations to have committed an offense which is considered to be an act of corruption, as well as against the other persons who are involved in that offense;
- on the basis of facts disclosed in the course of enquiries, the Commission also offers suggestions to various agencies:
 - (a) where a law, decision, order or action is found to be impractical, undesirable or inconsistent, it suggests amendments;
 - (b) where the Commission feels that any practice or procedure of His Majesty's Government or any institution is defective, it may suggest how to rectify them and resolve problems arising therefrom; and
 - (c) where it is felt essential to remain vigilant on any issue, the Commission can advise vigilance or actions to be taken on that issue; and finally
- to submit annual reports of its activities to His Majesty.

The Commission follows the provisions contained in the 1991 CIAA Act and the relevant

rules while conducting inquiries and investigations into complaints of improper actions or corruption filed with it. In addition, Section 32 of the same Act provides that the Commission may itself regulate its working procedure.

The Commission therefore acts in the following two particular ways:

- (1) As an ombudsman.
- (2) As an institution that prevents corruption.

The Commission as Ombudsman

The CIAA is the only ombudsman in Nepal. Improper actions to be inquired into and investigated by this Commission are directly connected with maladministration. The 1991 CIAA Act mentions that any of the following actions taken willfully or negligently by a person holding a public post will be regarded as improper:

- refusing to do things that are within his jurisdiction, or doing things for which he has no authority;
- failing to comply with the mandatory working procedure for taking decisions or issuing orders;
- exercising the powers vested in him for an objective or purpose in contravention of the appropriate law, decision, or order;
- exercising his discretionary powers in a *mala fide* or arbitrary manner;
- creating unauthorized obstruction in the work of any other office, authority or employee, or compelling any such office, authority or employee to perform any unauthorized action by exerting pressures;
- failing to do something which he should have done by sending it to another office or authority, thus evading his responsibility; or
- failing to discharge any duty pertaining to his post which he is required to discharge according to the nature of his post.

The Commission as a Corruption Prevention Institution

The CIAA is the only official body authorized to conduct inquiries and investigations and file lawsuits in connection with prevention of corruption in Nepal. Even though there are agencies such as the Special Police Department and the Revenue Investigation Division which are working for prevention of corruption at the governmental level, the entire responsibility of conducting inquiries and investigations into cases of corruption committed by persons holding public posts lies with this Commission, according to the constitutional provisions as well as a land-mark decision taken by the Supreme Court in 1995.

Compared with ombudsman and corruption prevention institutions functioning in other countries of the world, the CIAA has extensive jurisdiction and powers. The Constitution has entrusted the Commission with the great responsibility of hearing the personal complaints of citizens as well as working as a watch-dog institution. It must remain vigilant toward each activity of the government and has to conduct inquiries and investigations in order to control corruption. Accordingly, the Nepali people have great hopes and confidence in this Commission. However, the Commission faces various problems and difficulties in fulfilling its constitutional duties as well as in working according to the aspirations of the people. Immediate as well as long term measures are needed to resolve these problems.

1. **Absence of an Effective Law**

The current law is not effective for the purpose of conducting inquiries and investigations into and having the offenders punished by the court on a crime such as corruption. As a result, it is becoming increasingly difficult to make the lawsuits filed by the Commission with the court successful. Accordingly, it seems essential to introduce the following reforms in the 1991 Commission for Investigation Into Abuse of Authority Act:

Provisions should be made for the establishment of an "Authority Special Court" and to have cases relating to corruption disposed by it, instead of following the present practice of filing lawsuits relating to corruption with Appellate Courts

Under the provisions of the current law, the Commission has to file lawsuits after investigations with an Appellate Court. On an issue like corruption, it will not be effective if evidence is evaluated according to the common practice of using *prima facie* evidence. Judges need to study more about offenses such as corruption: in other words, some Judges need to specialize in the subject. This cannot be expected under the existing provisions, so it seems essential to establish an "Authority Special Court" to look specifically into cases of corruption.

There is a need for legal provisions requiring the accused to bear the onus of proof in special circumstances in cases relating to corruption

A case of corruption should be taken as a crime with strict liability. But under the current legal provisions, the agencies initiating the case (that is, the Commission and the government advocate) bear the full responsibility of proving that a case of corruption has been committed. Corruption is a white-collar crime committed by intellectuals. Often there is no physical evidence, even if such crimes are actually committed. Accordingly, after the Commission proves that a person holding a public post has not complied with any Nepal law, or that he has behaved in a discriminatory manner, provisions should be made requiring the accused to prove that he had taken the concerned action with *bona fide* motives, and that he had not received any benefit from taking the action. The traditional

principle of evidence law that the onus of proof lies on the plaintiff alone cannot be fully applied in the case of corruption. Once it is proved by the Commission that any person holding a public post has acted in an illegal or discriminatory

manner, the accused should be made responsible for proving that he had not taken that action with *mala fide* motives.

There is a need for provisions for holding as illegal any property which does not match or appears to be inconsistent, or whose financial source cannot be explained, or which has been earned through irregular means

It should be made clear in the law itself that in case any person holding a public post has any property which does not match or is inconsistent with the particulars of property submitted by him at the time of joining the service and the legal income earned by him thereafter, or that he has a standard of living or made a gift or donation that is higher or larger than matching with the property declared by him while joining the service and the lawful income made by him thereafter, such property will be treated as illegal and earned through corrupt means.

Provisions should be made authorizing investigations into Judges and office-bearers of constitutional bodies also in connection with charges of abuse of authority

Provisions should be made to authorize the Commission to conduct investigations, take action, or file lawsuits against office-bearers of all courts and constitutional bodies in respect to any charge of corruption or improper action taken by them while discharging any financial and administrative functions, other than those taken by them while fulfilling their prescribed constitutional obligations or taking judicial decisions.

2. Problems Relating to Personnel Management

No provision has been made for the Commission's own employees. It is thus compelled to discharge its functions through civil and police employees deputed to it for some time. The number of such deputed employees is inadequate, and these employees are transferred or promoted from time to time, and the Commission has no role to play in such matters. It has not, therefore, been possible for the Commission to train those employees in the specialized fields of inquiry and investigation that are required. Without training and other facilities, the Commission been unable to attract competent or qualified employees to work for it, or to inspire the deputed employees to develop their skills and career. Besides, the effectiveness of investigations and legal proceedings are being undermined because employees working in the Commission have to conduct investigations and file lawsuits against their own colleagues or their own superior officers and government officers. These employees need to remain loyal to the Commission from the viewpoint of their functions, but from the viewpoint of their

occupation or career development, they need to remain loyal to the government. This situation needs to be rectified. For this, the Commission's own manpower should be developed, and until that is done, the employees should be deputed to the Commission for a specified period. Besides, they should be guaranteed career development, and also provided with training both within the country and abroad, to help them to develop their skills.

3. Lack of Physical Resources

The Commission lacks even the minimum physical resources needed for conducting inquiries and investigations. It does not have its own laboratory to examine manuscripts and palm impressions, or equipment to test the standard of materials used in construction works. It is thus compelled to have various tests conducted by institutions controlled by the government. The Commission does not have any type of electronic equipment, and there is no provision for any electronic surveillance. As a result, the Commission is compelled to reach conclusions by investigating files and documents alone. This situation needs to be rectified.

4. Problem of Organizational Development

The jurisdiction of the Commission extends to the entire Kingdom. Since it is not possible for the Commission to take action on a nationwide basis on complaints filed at different levels, its functions are performed by the Special Police Department in Kathmandu, Lalitpur and Bhaktapur Districts, and by the Chief District Officers in the remaining 73 districts, in cases concerning office-bearers below the rank of the Departmental Head. The functions discharged by these agencies of His Majesty's Government have not been found to be satisfactory. These agencies do not appear to be working satisfactorily because they feel that they have only been discharging the functions which they have been ordered to discharge, and that those functions do not come under their responsibility.

The Commission is also failing to conduct supervision and monitoring operations in an effective manner due to lack of resources. Accordingly, with the objective of opening its own regional offices, the Commission had requested His Majesty's Government for funds to operate seven offices at different places within the Kingdom of Nepal during the current fiscal year. The request has been approved by His Majesty's Government (Council of Ministers), but the funds needed for the purpose have not been appropriated in the budget of the current fiscal year, so those offices have yet to be established. To rectify this situation, it is essential to establish a separate branch in each district administration office, post at least one employee there, and make provisions for their stationery expenses in order to facilitate investigations into complaints of corruption until the regional offices of the Commission are established.

5. The Need for Change in the Attitude of the Government

The government has taken up the issue of controlling corruption as its main slogan, but the Commission has failed to receive the expected level of cooperation from several governmental agencies. Not even the minimum budget has been made available. The proposed budgets of the Commission are being dealt with by the officials of the Finance Ministry, who

routinely reduce the budgets of all Government Ministries. The budgets of the Commission should have been treated as those of institutions whose expenses are to be charged to the Consolidated Fund, as provided for in the Constitution. The Commission is thus being compelled to conduct inquiries and investigations into cases of corruption throughout the Kingdom with a very low budget, at the same time as the nature of corruption is becoming global. Recent policy-decisions of the government have made it no longer possible for the Commissioners of the Commission to establish contacts with the corruption prevention institutions of other countries, where they might observe and study the procedures being adopted by them, and attend meetings, conferences, seminars, etc. of regional and international ombudsman institutions. It is not appropriate for His Majesty's Government to take policy-decisions concerning a constitutional body as, unlike the case of a government ministry or department, a constitutional body is supposed to be independent. In fact, the government takes such expenses as unproductive. This is a wrong attitude. A small investment made in such activities can help prevent major losses, as well as corrupt acts. For instance, because of a decision taken by the government, the Commission was deprived of the opportunity of participating in the third Asian Ombudsman Conference held at Macao in 1998, even though confirmation had already been received from the host nation following the approval of the Ministry of Finance. It is essential for the government to change its attitude of looking at its subordinate agencies and constitutional bodies with the same eyes: it should instead develop a positive attitude towards constitutional bodies.

6. The Need for Codes of Conduct

It is because of the absence of a code of conduct for political appointees, elected office-bearers, and high-ranking government employees that the number of cases of corruption is growing. It thus seems essential to prepare and implement a code of conduct for all political appointees, elected office-bearers, and governments officials and employees.

The Role of Government in Establishing an Ethics Regime

The Rt. Hon. Badri Bahadur Karki, Attorney General

Introductory Remarks

No discussion of democratic institutions can be complete without a discussion of the constitution of the country concerned. The present democratic constitution of Nepal envisaged limited, responsive and responsible government. After having experienced and experimented with a variety of political systems, we have adopted a parliamentary form of government with the Monarch as Head of State. The executive is responsible to and removable by the Pratinidhi Sabha (House of Representatives), which consists of 205 members elected through direct elections from territorial constituencies throughout the country. The constitution guarantees certain fundamental rights such as the right to equality; the right to life and liberty; freedom of speech, expression, and press; freedom of association and assembly; freedom of religion; the right to property, and the right to information and privacy. Parliament is prohibited from abridging or taking away those rights. Parliament cannot amend the basic features or structure of the constitution. The right to constitutional remedy has itself been guaranteed as a fundamental right by the present constitution. The Supreme Court is fully empowered to review the legislative enactment and the executive actions with a view to ensuring their conformity with the constitution. As the constitution is the fundamental law of the land all laws, whether pre-constitutional or post-constitutional, become void if not consistent with the provisions of the constitution. But however well a country's constitution works and however wise its politicians are, there are limits to what ought to be expected of any constitution. As Dorothy Pickles rightly said (Democracy 1970) *"Good constitutions cannot make good democracies, but good democracies can make good use of constitutions."*

Good Administration and Constitutional Concerns

The importance of good administration is frequently stressed by politicians, civil servants and judges. However, as a concept it lacks definition and clarity. At a minimum level, administration may be considered 'good' if it implements the policy goals of the government of the day, in accordance with the values underpinning these goals. This view is based on the premise that the main purpose of the administration is to support the governing political party of the day and the political process only. Thus what constitutes good administration may change as the requirements of government and the role of the state changes. It can, therefore, vary according to a government's ideology or its economic programs. However, this approach confuses the function of the administrative body with the principles that govern its operation and which support the constitutional position of civil servants as permanent, non-partisan servants of the crown who are required to serve governments of any political persuasion with dedication and impartiality. This concept requires the adherence to principles which ensure the legality of administrative actions and protect public servants from suspicions of political partnership and corruption. These principles also provide a base-line or blue-print for the way in which decisions of the government are made and services delivered. These principles act to protect the individual and the wider public from the arbitrary exercise of power or the misapplication of

public funds.

They also reinforce the concepts of fairness and justness as developed by the courts in relation to the administrative process of decision making.

Thus, it is not only the political party in power which has an interest in good administration. Indeed, it could be argued that what constitutes good administration is above government, and certainly outside party interests. This would accord with the concept of constitutional authority and suggest that the principles underlying it should not be undermined or dissipated by political requirements born of economic need or ideology (see *In Pursuit of Good Administration* by Diana Woodhouse, 1997, for further reading.)

Accountability and Responsibility

Under the British constitutional scheme the government draws a distinction between responsibility and accountability. Responsibility *"implies direct personal involvement in an action or decision, in a sense which implies personal credit or blame for the action or decision."* Thus a Minister in UK is accountable for the overall actions and activities of his Department, but is not directly responsible (in the sense of being blameworthy) for each individual action. A civil servant is not directly accountable to parliament for certain of his actions, but he can be delegated clearly defined responsibilities. In Nepal these ideas still cause confusion. However, we can broadly outline the following scheme of accountability and responsibility:

- elected representatives, including members of the government) are politically accountable to the electorate;
- Government Ministers are collectively and individually responsible to, and removable by, the House of Representatives;
- government decisions and parliamentary enactments, including constitutional amendments, are reviewable by the Supreme Court but Ministers/ civil servants are not punished for illegal/wrong decisions;
- there is criminal responsibility for acts of omission and commission;
- dismissal from the job and/or lesser punishment for violating codes of conduct for civil servants;
- strong public censure from the public/media/opposition parties;
- accountability through auditing of government accounts; and
- control and supervision through hierarchical administrative legal processes/channels.

Existing Laws/Regulations/Institutions Related to Accountability

Institutions

The Commission for the Investigation of Abuse of Authority (CIAA) is an important constitutional body with the power to investigate and prosecute high public officials, including the Prime Minister, if they are found guilty of abuses of authority and/or corruption.

The enabling Act of 1991 had originally excluded the Prime Minister from the CIAA's

purview but through the Supreme Court's order this power has been restored. In practice the CIAA has investigated Ministers and high officials and in one instance has prosecuted one incumbent Minister in a court of law on charges of abuse of authority/ corruption. The CIAA is considered to be the Nepali Ombudsman. Its commissioners are appointed by His Majesty the King on the recommendation of the Constitutional Council. They have fixed tenures and are not removable except through an impeachment motion passed by parliament. The CIAA is required to prepare and submit its annual report to His Majesty and these reports are discussed in parliament. Due to a lack of resources and trained permanent staff, the CIAA is finding it difficult to establish its efficacy and credibility.

Auditor General

The Auditor General of Nepal is appointed by His Majesty on the recommendation of the Constitutional Council. He or she has the responsibility to carry out an audit of the accounts of all public offices and public corporations with due consideration to their regularity, economy, efficiency, effectiveness and propriety. The Auditor General's report is submitted to His Majesty and then laid before parliament for general discussion. The mechanism of auditing should ensure the accountability of government officials. Lack of resources and competent staff are said to be the main impediments in the effective functioning of this high office.

Public Service Commission (PSC)

The Public Service Commission is entrusted with a constitutional mandate to conduct examinations for the selection of competent persons to be appointed to the post of civil servants. There exists a Civil Service Act and regulations regulating the appointment and promotion of civil servants and departmental actions against them. The PSC is required to submit its annual report to His Majesty, which is laid before parliament for general discussion. Through the latest amendment in the Civil Service Act of 2049, the PSC's recommendation has been made compulsory even for the recruitment and appointment of civil servants for temporary posts. The PSC also suffers from resource and manpower problems.

Election Commission (EC)

There is an Election Commission staffed by a Chief Election Commissioner and other commissioners who are tasked with conducting and ensuring free and fair national and local government elections. The EC has power to register party names and to allot election symbols, and it is expected to have some supervisory control over the democratic functioning of political parties.

Attorney General (AG)

The Attorney General is the chief legal advisor to the government with a responsibility to give opinions and advice on constitutional and legal matters to the government and other public authorities. The Attorney General is appointed by His Majesty the King on the recommendation of the Prime Minister. He holds his office at the pleasure of His Majesty but

by convention leaves his office with the Prime Minister who recommends him for his appointment.

The AG or officers subordinate to him represent His Majesty's Government in suits involving the rights and interests of the government. It is the Attorney General who makes or takes the final decision as to whether or not to initiate legal proceedings against a person in a court of law or before any judicial authority on behalf of His Majesty's Government. The AG has the right to appear in any court, office or authority of the Kingdom. Similarly, the AG has the right to appear and give opinions on any legal question in either House of Parliament, in parliamentary committees or in the joint session of parliament. Like other constitutional bodies, the AG and his office need adequate resources and trained legal manpower in order to successfully complete their tasks.

Some Major Acts and Regulations Concerning Accountability

The Anti-corruption Act 2017, the CIAA Act 2048, the Elections (offenses and penalties) Act 2047, the Audit Act 2049, the Revenue and Government Contract Act 2020, the Companies Act 2053, the Income Tax Act 2019 and other revenue legislation/regulations are some of the major acts/regulations that in one way or another lay down procedures and norms, and prescribe punishments for guilty persons. Mere promulgation of enactments do not ensure their efficacy. With the establishment of the CIAA, the position and legal status of the Special Police Department and its juridical relationship with the CIAA has become a matter of legal controversy. There is a legal dispute pending before the Supreme Court which requires the constitutional mandate of the CIAA. Similarly, the AG's power to initiate a case of corruption or abuse of authority investigated by the CIAA has also been presented before the Supreme Court and is awaiting final resolution.

Methods for Increasing the Effectiveness of the Government in Establishing an Ethics Regime

There can hardly be a difference of opinion on the need to create and guarantee a just, fair and good administration. One of the biggest challenges the country is facing today is how to restore credibility in the administration among the common people. The country had a golden chance to make a fresh start but we have not availed ourselves of this opportunity. The administration, molded and trained in the old regime, is now faced with new leadership and an open political environment which it finds very difficult. Most of the laws and regulations enacted during the past regime have remained unchanged. Frequent changes in the government and coalition alliances have not helped matters. The political parties and their leadership have yet to arrive at a broad understanding and consensus on the basic question of a neutral bureaucracy. We have yet to establish and develop a bureaucracy which could perform a truly advisory role. Frequent changes in the level of secretaries/department heads/corporate-executives with the change of government has also affected the neutrality of the administration.

The following observations are in order:

- the institutionalization of government decision-making is essential;

- updating and reform of laws/regulations with changes in government policy must be followed;
- the CIAA's functioning capacity in terms of its resources and manpower needs to be considerably strengthened;
- the preventive aspect of abuses of authority/corruption should be given high priority;
- the existing controversy regarding prosecuting power between the CIAA and AG's office and the CIAA and the Special Police Department should be resolved as quickly as possible;
- the working relationship between bureaucrats and politicians/ministers must be based on administrative neutrality;
- high constitutional bodies like the CIAA, EC, PSC, Attorney General's and Auditor General's Offices should get due attention and full cooperation from the government in order to make them effective in terms of staff and resources;
- delays in government decision-making and non-observance of rules/regulations have given rise to court litigation. Strict adherence to relevant rules while making government decisions should be observed;
- scrutiny by parliamentary committees and recommendations of these committees should be made effective; and
- the Law Reform Commission should undertake regular and thorough reviews of laws and make recommendations for improvement. Government and Parliament should give more time and take more initiative with respect to their law-making function.

Note: The views and opinions expressed in this paper are my personal ones, and they have nothing to do with my official capacity or with the Government's views in these matters.

The Role of Parliament in Promoting Parliamentary and Executive Branch Ethics: Problems and Necessary Reforms

The Hon. Deepak Prakash Banskota, MP

The Meaning of Ethics

The term "ethics" means the science of morality, or moral principles. In other words, it means a moral code of conduct. It is an abstract concept, which cannot be seen in a material form and is reflected in the conduct of every important person and office-bearer. It is an invaluable asset which plays an important role in the natural development of the nation. It can be taken as the chief means of resolving the main issues concerning democracy and human rights.

Ethics Related to the Vedic Regime

The *Vedas* are considered to be the oldest scriptures in the world. A study of the regimes and the historical context of development from the *Rigvedic* times shows that we are lagging behind by several years. *Veda* means knowledge and, according to experts, the law and order situation in a state governed by *Vedic* law, that is, the natural law, was better than that in modern states governed by man-made constitutions. There were morality, ideals, and good conduct, and not only peace and security but also prosperity in the society. With such historical background, Nepal cannot remain uninfluenced by the *Vedas*.

It may be because of the influence of the *Vedic* era that until 50 years ago, when there was no written law or constitution, Nepali society was religiously, culturally and traditionally governed by ethics to a large extent. But today, in the name of development, several moral bonds have been broken, anarchy has gained strength in the society, corruption is growing day by day, and new forms of crime are emerging. Accordingly, Maharshi Mahesh Yogi is continuously working for the upliftment of the society, and his Maharshi Mahesh Yogi Vedic University is spreading *Vedic* knowledge and technology throughout the world by establishing universities, colleges, schools, and centers in various countries, including America, Canada, England, Japan and India. Let us see what contributions they can make in the future. It can, however, be said without any doubt that *Rama-Rajya* means *Vedic* knowledge and technology.

Ethics in the Context of Nepal

The constitution of every democratic country provides for the formation of a clean and moral society and operating an exploitation-free, just, and democratic regime. Let me remind you that the 1990 Constitution of the Kingdom of Nepal, which is considered to be an achievement of the successful people's movement of 1990, has also adopted the same idea.

The 1990 Constitution of the Kingdom Nepal has made clear provisions with respect to the duties to be fulfilled by citizens, as well as by persons holding public posts. Likewise, the other current laws have made some clear provisions with respect to the conduct of Members of

Parliament, members and office-bearers of the constitutional bodies, and members of the Council of Ministers.

Additionally, an election code of conduct has been framed and brought into force by the Election Commission with a view to ensuring fair and peaceful elections. Likewise, other laws enacted by parliament, as well as the various rules framed by His Majesty's Government, have made necessary provisions with respect to the functions and conduct of persons holding public posts.

Despite the existence of the above-mentioned legal provisions, we find that questions are raised from time to time about the conduct and behavior of Members of Parliament, the Council of Ministers, and persons holding public posts. It is time for political persons like us who have reached high-ranking posts to think seriously about this. First of all, we ourselves need to present an example by keeping our own conduct and behavior clean, unblemished, and restrained, and by keeping others with wrong conduct or behavior disciplined or controlled. I believe that this is the need of the hour. For this, we need to think about enacting other appropriate laws.

At present, there is no alternative to democracy. Parliament is, therefore, making various efforts to make the parliamentary system stronger and more people-oriented. Accordingly, the current House of Representatives Rules provide for a Conduct Committee and a Privilege Committee to discourage attempts to spread unnecessary propaganda about democracy and the parliamentary system. Likewise, in view of the irregularities noticed in elections, as well as the voices being raised about the involvement of political parties in smuggling activities, parliament has formed two separate Parliamentary Joint Committees for conducting investigations into these matters. At present, both these Committees are actively discharging their functions according to their mandate.

The developed countries have their own specific standards relating to conditions or rules to be followed and working procedure to be adopted by them. If they are violated, the Office of Government Ethics takes action. For example, Congressmen as well as high-ranking officers of the United States of America are required to submit particulars of their activities, as well as of their assets and liabilities, by May 15 every year. Additionally, they are not allowed to earn more than 15 percent of their perquisites, or accept gifts in excess of the prescribed limit. In fact, they are prohibited from accepting any gift in connection with their official functions.

Various countries of the world have developed their own system relating to ethics. But they all agree on one point; that it is essential for top-ranking officials and bodies to comply with a code of conduct. This is a universal truth. In Nepal, the top-most bodies and officials are the Council of Ministers, Members of Parliament, chiefs of constitutional bodies, and heads of executive bodies. There is an urgent need for them to improve their conduct.

In different countries of the world such as the UK, the USA, France, Germany, Denmark, Australia and Japan, a minimum standard relating to functions that may or may not be performed, incomes that may or may not be earned, etc. are prescribed with respect to all fields

on the basis of their respective social, economic and political conditions. In almost all countries, economic particulars have to be updated, the functions of officials and members are prescribed and provisions are made to monitor whether or not those functions are being discharged. Also, mandatory provisions have been made with respect to the code of conduct to be complied with

by every agency and individual, in addition to those concerning election expenses and acceptance of gifts and donations.

It cannot, therefore, be said that the relevant laws are of recent origin in Nepal. There are specific matters in some laws, rules and directives, and there exist agencies like the Special Police and the Commission for Investigation of Abuse of Authority. Only recently, a Conduct Committee has been formed in parliament, which is headed by the Speaker and comprises the Prime Minister, the leader of the opposition, as well as leaders of the parliamentary parties of the three recognized parties. In a country following the parliamentary system, parliament is the supreme body. It can frame policies and rules and also exert pressure on the government to enforce or make arrangements for enforcing them. Thus if the Council of Ministers, parliament and high-ranking executive bodies so desire, they can make adequate arrangements by enacting a separate law relating to conduct or by amending the existing laws. Let us hope that the high-level Conduct Committee formed under the Chairmanship of the Speaker himself will render important contributions with respect to the issues raised by this workshop.

Since the people's movement, all existing political parties have attained power. But, impartially speaking, no party appears to have given priority to ethics. Ethics is a bond, which, once broken, can never be repaired. We MPs frame laws and rules, but fail to comply with them. The government makes a policy statement, but does not follow it in actual practice. Employees try to avoid blame by putting forward laws and policies. With some exceptions, it appears that the Council of Ministers, the legislators, and high-ranking employees have not attained a moral standard. Thus, NDI is organizing this workshop at a very appropriate time, and we hope that it will prove helpful in drawing attention towards ethics in Nepal.

Problems and Necessary Reforms

Some problems inherent in the regime of Nepal have already been discussed above. In view of the need to focus attention on the role of Parliament in the promotion of the conduct of the parliamentary and executive bodies, it is essential to think about the problems faced in this connection and the reform measures which may be necessary.

In a parliamentary system, the parliament is the only body which enjoys special powers to reject, approve, amend, etc. any proposal presented by the government.

In a report published in 1996 by the OECD, which edited the country reports of Australia, Finland, Mexico, Netherlands, New Zealand, Norway, Portugal, the United Kingdom, and the USA, eight conditions are indicated as preconditions for an ethics regime. These conditions have been found to be highly relevant in the context of Nepal. They are:

- political commitment;
- an effective legal system;
- a machinery for execution of functions in a responsible manner;
- a practical code of conduct;
- professional and social structures;
- positive conditions of public service;
- a Code of Conduct Coordination Committee; and
- active civic committees which can work as watch dogs in respect to the functions of the government.

I would like to say in brief that our problem is our failure to do what we say we need to do. The solution of the day is to do what we say we need to do.

- There must be all-party political commitment to work for the establishment of an ethics regime by making the agencies as well as policies provided for in the current Constitution, laws and rules more effective. Additional policies should be framed and new agencies established, if necessary.
- In addition to such commitment, the government must be committed to enact through parliament, according to need, laws and rules of the type which ensure voluntary or mandatory compliance with them, and to regularly update them.
- It is essential to frame a code of conduct which is practical and suitable to our country for agencies and officials involved in all sectors.
- Inasmuch as the Conduct Committee that has taken birth in parliament is a high-level committee of the nation, it must be made effectively active. This Committee itself can become the top-most ethics body.
- An ethics faculty should be opened in each university, highly-educated manpower should be produced, and the existing manpower should be trained through workshops, seminars, study tours, etc.
- Functional manpower includes ministers, Members of Parliament, and high-ranking employees. In order to mobilize them with respect to the issue of ethics, such necessary preconditions as appropriate remunerations and facilities, rewards and punishment, impartial behavior, transparency in functions and activities, fields of economic involvement, and limits or standards of property and income, must be formulated and implemented.
- Active civic committees of qualified citizens, journalists and experts must be formed to raise their voices and exert moral pressure on the executive.
- A responsible executive machinery should be formed, in which professional people and experts or specialists should be appointed, and a system of non-

interference by the upper level, except for providing policy support or opposition, should be arranged.

APPENDIX D

Papers Distributed to the Seminar Participants:

1. Agenda
2. Brief biographies of NDI International Faculty Members
3. Welcome speech by the Hon. Dale Campbell-Savours, leader of NDI Ethics Delegation
4. Recommendations of the ethics delegation of the NDI
5. Speech by Michael J. Korwin, Senior Ethics Specialist, US Office of Government Ethics
6. Issue Paper I : *"The Role of Government in Establishing an Ethics Regime"* by the Rt. Hon. Badri Bahadur Karki, Attorney General
7. Issue Paper II: *"The Role of Constitutional Bodies in Combating Corruption"* by the Hon. Mahadav Dutta Bhatta, CIAA Commissioner
8. Issue Paper III: *"The Role of Constitutional Bodies in the Struggle Against Corruption"* by the Rt. Hon. Auditor General, Bishnu Bahadur K. C.
9. Issue Paper IV: *"The Role of Parliament in Promoting Parliamentary and Executive Branch Ethics"* by the Hon. Deepak Prakash Banskota, MP and Former State Minister
10. Standards of ethical conduct for employees of the executive branch
11. The code of conduct together with the guide to the rules relating to the conduct of members, approved by The House of Commons, United Kingdom, July 24, 1996
12. Ministerial Code, United Kingdom
13. Code of Conduct for Members of Parliament, Republic of South Africa
14. Code of Conduct for the Public Service, Republic of South Africa
15. Code of Conduct for the Election Commission (Nepal)
16. Executive Branch Personnel Public Financial Disclosure Report
17. Ethics in Government Act - Financial Disclosure Statement for 1996, United States House of Representatives
18. Highlights of House Ethics Rules, US House of Representatives
19. European Parliament, Directorate General for Research, Transparency and Members' Financial Interests
20. US House of Representatives, Committee on Standards of Official Conduct, April 25, 1997
21. US House of Representatives, Committee on Standards of Official Conduct, July 28, 1997

22. The Lima Declaration, VIII International Anticorruption Conference, September 1997
23. Training in Ethics, United Kingdom
24. Crimes and Criminal Procedures, United States of America
25. Civil Servants' Oath-taking Form
26. Newsletter of Transparency International (South Africa)
27. Organization for Economic Cooperation and Development brochure
28. United States Office of Government Ethics brochure

APPENDIX E

Himalaya Times August 2, 1998. (First Page)

'Let us Join Hands to Curb Corruption in all Sectors.'

Kathmandu August 1,

Finance Minister Ram Saran Mahat, inaugurating a one day seminar on "The Role of Government, Parliament, and Independent Constitutional Bodies in Establishing an Ethics Regime: Problems and Necessary Reforms," said that it is necessary for all conscious citizens, constitutional bodies and non-governmental organizations to join hands to curb the problem of corruption in the country.

The program was organized by the Nepal branch of the National Democratic Institute for International Affairs, with the objective of establishing an ethics regime in order to strengthen democracy in Nepal. Corruption exists everywhere but the problem is that the degree of corruption is higher in developing countries and has its direct affect on the development process of the country, Minister Mahat said. He also expressed the belief that the Government is committed to controlling this problem.

Leader of the NDI Ethics Delegation and British Parliamentarian Dale Campbell-Savours, presenting the recommendations of the delegation, said democracy in Nepal is in its infancy and it is time for all sectors to be responsible, transparent, and committed to institutionalizing multiparty democracy.

Speaking on the occasion, NDI South Asia Representative Maryam Montague said that NDI has been working in Nepal for four years in the area of strengthening the democratization process, and the seminar was organized with the objective of helping to establish an ethics regime and good governance to prevent corruption.

The seminar was chaired by the former Chief Commissioner of the Commission for the Investigation of Abuse of Authority, Radha Raman Upadhaya, and was attended by 100 participants including MPs, Chiefs of the constitutional bodies, government officials and other concerned experts.

(Unofficial translation)

The Kantipur Daily and the *Gorkhapatra Daily* of August 2, 1998, also carried the same news in their first pages.

Samacharpatra August 2, 1998. (First Page)

'Foreign MPs Saw Corruption in Nepal'

Finance Minister Dr. Ram Saran Mahat said that we are in the dawn of 21st century and the sensitive issue of corruption cannot be solved only by legal provisions until the responsible people of the State work honestly according to ethical norms and values.

Minister Mahat stated this while inaugurating a one-day seminar on "The Role of Government, Parliament, and Independent Constitutional Bodies in Establishing an Ethics Regime: Problems and Necessary Reforms," organized by the National Democratic Institute for International Affairs' Kathmandu office.

Dr. Mahat expressed the view that corruption has had a worse affect on developing countries than developed ones, and it is important to organize such seminars of intellectuals to discuss this vital social evil and seek possible solutions.

He also stated that corruption causes the people to suffer a great deal. Civil servants and other people in positions of authority must be accountable in their work or it will cause negative affects on our nascent multiparty democracy. Such employees should be guided by commitment to public service. It is also necessary for the government to give proper guidelines.

In a democratic system everything should be transparent, and today corruption has become an open barrier creating problems especially in the fields of foreign exchange, distribution procedure for import and exchange licences, and for revenue collection process, Minister Mahat added.

In an open society where there is less State intervention, the problem of corruption in the public offices increases. To curb this problem it is necessary to improve the morals of the political leaders and their followers, Minister Mahat stressed.

"Although we have democracy, we have not been able to control corruption in the country, and it is time for all of us to join hands to curb this social vice," the Finance Minister added.

Free Press and Transparency are the Pillars of Democracy

Leader of the NDI ethics delegation, British House of Commons Parliamentarian Dale Campbell-Savours, speaking on the occasion said, "Where there is a free press and transparency, the foundation for democracy becomes stronger and the representatives of the people will be freed from corruption."

He also stressed that in a democracy the press, transparency, and a political commitment on the part of the leaders are necessary characteristics. Unless we are committed to these issues, multiparty democracy cannot be strengthened and function effectively.

(Unofficial translation)

APPENDIX F

**PARTICIPANTS' REGISTRATION LIST FOR THE SEMINAR ON
"THE ROLE OF GOVERNMENT, PARLIAMENT AND INDEPENDENT CONSTITUTIONAL BODIES
IN ESTABLISHING AN ETHICS REGIME: PROBLEMS AND NECESSARY REFORMS"**

AUGUST 1, 1998, KATHMANDU, NEPAL

SL. NO.	NAME	DESIGNATION	ORGANISATION
1	Ali Shah, Mr	Country Director	Asian Development Bank
2	Anand Prasad Adhikari, Mr	Section Officer	Parliament Secretariat
3	Ambika Shrestha, Mrs	Former President	Transparency International
4	Bhim Bahadur Tamang, Hon	Member of Parliament	House of Representatives
5	Birendra Prasad Mishra, Hon Dr	Commissioner	Election Commission
6	Bishnu Bahadur K. C., Rt Hon	Auditor General	Office of the Auditor General
7	Bharat Prasad Dhital, Mr	Former Vice Chairman	National Planning Commission
8	Badri Bahadur Karki, Rt Hon	Attorney General	Office of the Attorney General
9	Bhim Bahadur Rawal, Hon	Member of Parliament	House of Representatives
10	Bina Pradhan, Dr	Special Secretary	Ministry for Women and Social Welfare
11	Baldev Khadka, Mr	Under Secretary	Parliament Secretariat
12	Bimilendra Nidhi, Hon	Minister	General Administration
13	Chin Kaji Shrestha, Hon	Member of Parliament	House of Representatives
14	Chakra Bahadur Dagaara Chaudary, Hon	Chairman	Law & Justice Committee
15	Duryodhan Singh, Hon	Chairman	Natural Resources Committee
16	Deepak Prakash Banskota, Hon	Member of Parliament	House of Representatives
17	Daman Nath Dhungana, Hon	Former Speaker	House of Representatives
18	Durga Kumari Bhattarai, Hon	Member of Parliament	House of Representatives
19	Gehendra Malla, Mr	Professor	Trichandra Campus

Appendix F: List of Participants

20	Ganesh Prasad Pandey, Mr	Section Officer	Parliament Secretariat
21	Ganesh Bhurtel, Mr	Member	Society for Constitutional and Parliamentary Exercises (SCOP)
22	Gangadhar Lamsal, Hon Dr	Whip (NC)	House of Representatives
23	Ghona Devkota, Hon	Member of Parliament	National Assembly
24	Ganesh Dutta Bhatta, Mr	Lecturer	Nepal Law Campus
25	Hira Dutta Bhatta, Hon	Leader (Ruling Party)	National Assembly
26	Hiranya Lal Shrestha, Hon	Chairman	Human Rights Committee
27	Hans Rothenbuhler, Mr	Country Director	World Bank
28	Ishwor Prasad Upadhyay, Dr	General Secretary	Parliament Secretariat
29	Indra Bahadur Sherchan, Hon	Commissioner	Commission for Investigation of Abuse of Authority
30	Indira Rana, Ms	Secretary	Judicial Commission
31	Jamshaid Iftikhar, Mr	Deputy Chief of Mission	Embassy of Pakistan
32	Jagannath Poudel, Hon	Member of Parliament	National Assembly
33	Jaya Prakash Prasad Gupta, Hon	Member of Parliament	House of Representatives
34	Janet Bogue, Ms	Deputy Chief of Mission	American Embassy
35	Jivan Lal Satyal, Mr	Former General Secretary	Parliament Secretariat
36	Krishna Pradhan, Mr	Teacher (Language)	
37	Kamal Prasad Koirala, Hon	Chairman	State Affairs Committee
38	Khag Raj Adhikari, Hon	Member of Parliament	House of Representatives
39	Kuber Prasad Sharma, Mr	President	Green Nepal Party
40	Krishna Prasad Upadhaya Gautam, Hon	Member of Parliament	House of Representatives
41	Krishna Hachhethu, Mr	Lecturer	Tribhuvan University
42	Keshav Poudel, Mr	Consulting Editor	Spotlight
43	Lila Bahadur Basnet	Secretary	Commission for Investigation of Abuse of Authority
44	Madhu Nidhi Tiwari, Hon	Member	Public Service Commission
45	Meena Pandey, Hon	Minister	Women and Social Welfare

Appendix F: List of Participants

46	Mahendra Dhoj G. C., Hon	Chairman	Population & Social Committee
47	M. P. Ghimire, Mr	Joint Secretary	Ministry of Finance
48	Mukunda Prasad Sharma, Mr	Under Secretary	Parliament Secretariat
49	Mohammed Mohsin, Hon Dr	Member of Parliament	National Assembly
50	Manohar Prasad Bhattarai, Mr	Under Secretary	Parliament Secretariat
51	Mohan Prasad Banjade, Mr	Joint Secretary	Parliament Secretariat
52	Madhav Dutta Bhatta, Hon	Commissioner	Commission for Investigation of Abuse of Authority
53	Mihir Kumar Thakur, Mr	Coordinator	Pro Public
54	Mohan Pandey, Mr	Chief	Special Police Department
55	Narendra Kumar Shrestha, Mr	Acting Senior Government's Advocate	Office of the Attorney General
56	Narhari Acharya	Former Minister	Parliamentary Affairs
57	Purushottam Ghimire, Mr	Under Secretary	Parliament Secretariat
58	Pari Thapa, Hon	Chairman	Joint Parliamentary Draft Committee
59	Purnaman Shakya, Mr	Assistant Professor	Nepal Law Campus
60	Prakash Chandra Lohani, Hon Dr	Member of Parliament	House of Representatives
61	Purushottam Poudel, Hon	Member of Parliament	House of Representatives
62	Padam Lal Shrestha, Mr	Coordinator	Shelter & Local Technology Development (SLTD) Centre
63	Peter Heigl, Mr	Charge' d' Affaires	British Embassy
64	Ram Sharan Mahat, Hon Dr	Minister	Finance
65	Ram Bahadur K. C., Mr	Secretary	Upper House of the Parliament Secretariat
66	Ram Lal Shrestha, Mr	Secretary	National Assembly
67	Radha Raman Upadhayay, Hon	Former Chief Commissioner	Commission for Investigation of Abuse of Authority
68	Rambabu Nepal, Mr	Deputy Auditor General	Office of the Attorney General
69	Raghuji Panta, Hon	Member of Parliament	House of Representatives
70	Ram Prasad Shrestha, Hon	Former Chief Commissioner	Commission for Investigation of Abuse of Authority
71	Ram Pradhan, Mr	Journalist	Media Services International

Appendix F: List of Participants

72	Rajendra Prasad Pandey, Hon	Chief Whip, CPN-UML	House of Representatives
73	Ram Kumar Gyawali, Hon	Member of Parliament	House of Representatives
74	Surya Dhungel, Dr	Chairman	Society for Constitutional and Parliamentary Exercises (SCOP)
75	Somraj Acharya	Program Officer	UNICEF
76	Surya Kiran Gurung, Mr	Secretary	Parliament Secretariat
77	Shanta Bahadur Rai, Rt Hon	Chairman	Public Service Commission
78	Silu Pyari Karmacharya, Hon	Member of Parliament	National Assembly
79	Shanta Manavi, Hon	Member of Parliament	National Assembly
80	Som Bahadur Thapa, Mr	Under Secretary	Parliament Secretariat
81	Sharda Pokharel, Hon	Member of Parliament	National Assembly
82	Sarvendra Nath Sukla, Hon	Chief Whip, RPP	House of Representatives
83	Sindhu Nath Pyakurel, Mr	Senior Advocate	Supreme Court
84	Sailendra Sigdel, Dr	Consultant	DFID
85	Sher Bahadur K. C., Mr	Lawyer	Supreme Court
86	Tirtha Man Shakya, Mr	Secretary	Ministry of Law & Justice
87	Usha Nepal, Ms	Chief District Officer	Kathmandu District
88	Bharati Silwal, Mrs	Interpreter	
89	Babita Bista, Ms	Rapporteur	
	NDI DELEGATES		
90	Dale Campbell-Savours, Hon	Member of Parliament	House of Commons, United Kingdom
91	Vusumuzi Mavuso, Hon	Member of Parliament	Gauteng Provincial Legislature, South Africa
92	Michael Korwin, Mr	Senior Ethics Specialist	US Office of Government Ethics
	NDI STAFF		
93	Maryam Montague, Ms	South Asia Representative	National Democratic Institute (NDI)
94	Ram Guragain, Mr	Senior Program Officer	National Democratic Institute (NDI)
95	Naveen Subba, Mr	Office Manager/Program Officer	National Democratic Institute (NDI)

Appendix F: List of Participants

96	Deepak Khanal, Mr	Program Officer	National Democratic Institute (NDI)
97	Anamika Rai, Ms	Office Secretary	National Democratic Institute (NDI)
	REPORTERS		
98	Chiranjibi Dhungana, Mr	Reporter	Aajako Samacharpatra
99	Chudamani Bhurtel, Mr	Reporter	Nepal Television
100	Dinesh Dahal, Mr	Reporter	Nepal News Agency
101	Uttam Silwal, Mr	Cameraman	Nepal Television
102	Kedar Bhattarai, Mr	Reporter	Himalaya Times
103	Krishna Pokhrel, Mr	Reporter	Himalaya Times
104	Saligram Tiwari	Reporter	Jana Astha
105	Subindra Bogati, Mr	Reporter	The Kathmandu Post
106	Chandra Bariya, Mr	Reporter	Radio Nepal
107	K. C. Wagle, Mr	Assistant Editor	Gorkhapatra
108	Tanka Panta, Mr	Associate Editor	Aajako Samacharpatra
109	Bharat Bhurtel, Mr	Editor	Suruchi Weekly
110	Hari Bahadur Thapa	Reporter	Kantipur Publication
111	Navraj Bhattarai, Mr	Reporter	Khabarkagaj
112	Rajendra Pratap Shah, Mr	Chief reporter	Ghatna Ra Bichar
113	Ajaya Bahadur Khanal, Mr	Editor	Patrika