Necessity of Corruption Control and Improving Governance at Nepal-India Border

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Abstract

Nepal has long made efforts in developing the country with all its social, economic policies and its enormous resources and huge potentialities. Recent developments in ruling system of government have shown rays of hope for building nation. Corruption and poor governance of transition period are the main constraints against development. Bordering country India has certainly positive roles for Nepal and governments of both the sides have been putting joint efforts in this regard at different levels.

Key words: corruption control, governance, customs, border, government

INTRODUCTION

Corruption and bribery are the major economic crimes in Nepal. Economic crimes of various natures are put within the definition of corruption under the Prevention of Corruption Act, 1960. Corruption has worldwide negative affects and a matter of concern for governments and people alike. Combating corruption has become a very common topic of discussion for people from all walks of life. At the international levels corruption prevention and counter measures especially in United Nations General Assembly it has got focus. All the possible thoughts have been given for it at the council meetings.

Nepal is not an exception to it either. Various mechanism and policies were formed to work on it and still there are attempts in progress and their yielding results. It has become open secret in Nepal that people dealing with honey would certainly have the opportunity to taste it. Likewise authorities in possession of liberty of their power and influence would not miss to let slip fortune rather opt for selfhood. People in Nepal have well experienced of corruption even in politics and the governance of all the major parties while in power. No matter which party and what agenda they have whosever government comes there seems no tangible difference. There are caused hindrances in corruption investigation and prosecution. The major problem lies with the ineffective laws and their compliance. Corruptions in Nepal are of multi-forms. 2019 complaints of corruption and improper conduct were registered in single fiscal year of 1996/97 with the Commission for Investigation and Abuse of Authority. Upon investigation amazing number of officials from minister to secretaries were convicted (Paudel, 1998).

A loophole of tax revenue is the evasion case. Tax revenue is the most reliable and foremost source for any government to run the state. In context of Nepal tax revenue and non-tax revenue is comprised of 80.4 percent and 19.6 percent shares respectively. Violation of customs regulations, smuggling merchandise of consumable to all types of goods have serious adverse impact on tax revenue of the country. The business community and high-income groups are the most likely engaged in tax evasion. Though the countermeasures are there but they may not suit them properly as thought of and more remains to be done. The countermeasures prevalent in the country are as follows;

Commission for the Investigation of Abuse of Authority (CIAA)

The CIAA is a constitutional body established under Article 97 of the Constitution of the Kingdom of Nepal, 1990. The Commission investigates cases of abuse of authority related to corruption or
improper conduct by any official while in capacity of public office. The CIAA functions as a watchdog and Ombudsman against corruption. It can warn and pinpoint any person found involved and so it can recommend concerned agencies for further penal actions. The CIAA in many cases has booked accused persons to court in accordance to the prevailing laws.

National Vigilance Center (NVC)

NVC was established to play a preventive and vigilant role so as to ensure good governance in fair economic discipline, moral, ethical and transparent manner. The NVC was formed according to anti-Corruption Act, 2059 BS (2002) aiming to mitigate the corruption activities effectively and build a corruption free society.

District Administration Office (DAO)

DAO is the main administrative agency of the government in the districts. The CIAA has delegated some of its power to the Chief District Officer of the DAO to investigate cases of corruption within the district (Paudel, 1998). Nepal-India like border is really hard to find anywhere else in the world for the existing provision for people of both the countries to pass through any points to their convenience. The number of check posts meant for carrying out bilateral trade is 22 for these two countries. However for third country people to cross the border with valid documentation and permits there are designated six points. The smuggling and encroachments could be for the reason of whole area of border not covered by the security agencies of both the sides of Nepal and India.

The government of Nepal has deployed Armed Police Force (APF) to look after the international border of Nepal sharing with India and China. Other than the security deployment in the field of revenue collection APF has 21 Border Security Offices, 10 Revenue & Customs Patrol Security Bases, 48 Border Out Posts, and 25 temporary BOPs totaling 104 points covered. Flying Squads of two teams since June 10, 2010 were initially put under the command of Director General of Revenue Investigation Department to assist control of revenue pilferage. The statistics of Nepalese Rupees 170,767,699 in the fiscal year 2009/2010 was made through seizure of smuggled merchandise (Onta, 2010).

Customs contribution of tax revenue in 2007/2008 was 24.7 percent. The following year in 2008/2009 it decreased to 22.1 percent. In the fiscal year 2009/2010 it reached to 23 percent. Traditionally primary source of revenue is the customs. Even now around 52 percent portion of tax revenue comes from customs administration. Customs administration has vital role in the whole economy of the country. There should be no reluctance in admittance by customs administration against any flaws rather to address them. Rectifying flaws or irregularities and resolving them the most appropriate way need to be developed.

Professionalism and merits of agent tradesmen too count for the quality standard of customs administration. Agent tradesmen are expected to adhere to code of conduct but unfortunately field reality is different. Effective ways of compliance to certain standards have still to be figured out in absence of which the agent tradesmen of good moral are out of sight. The sanction of a system for new agent is still pending for more than a decade. Agent tradesmen could also be taken responsible for incurring the irregularities and indiscretion. Slogan of the International Customs Day 2011 "Knowledge, a catalyst for Customs Excellence" inspires the customs administration to face the challenges (Upadhyay, 2010).

Smuggling across the Nepal-India border belts likely increased due to the displaced customs offices of insurgency days not reinstated yet. According to the Nepalgunj Customs Office, lacking of customs offices in adequate number let smuggle of goods thrive along the border resulting adverse affect on
revenue collection of the country. Revenue of tens and thousands rupees worth goes uncollected for non deployment of security forces along the Nepal-India border (The Himalayan Times, 2012).

There are other illegal activities like trafficking of girls to Indian brothels in cities like Mumbai and New Delhi; trafficking of narcotic drugs like hashish and marijuana; small arms and ammunition; movement of criminals and hideouts of terrorists. Nepal and India have mutual consent over to control such illegal activities along the border, but there is lack of an effective and practical approach. All the above quoted illegal activities are due to the practice of corruption in the government bureaucracy, ad hoc policies, feeble rules and slackness in monitoring and evaluation. Customs on both sides of the border cannot be ruled out involving in corrupt practices (Vidya, 2012).

Illicit cross-border flows could involve networking from different countries. Those could be transnational and linking up laymen to politicians of broader web abroad. They are also found dealing in more than one trade of smuggling drugs to arms and human trafficking, smuggling of guns to initiate or sustain combat or insurgency. Transparency International has tried to study it in terms of illegal logging. The organization has data regarding the corruption linkages of South Asia that was conducted through the Forest Governance Integrity (FGI) project. The cross-border nature of the trade is facilitated by different drivers of corruption, including: political corruption, foreign bribery in supply countries, corruption in licensing and concessions, timber 'laundering networks, judicial corruption and weak due diligence on the part of financial institutions.

Additionally political leaders are corrupt and they spoil the system. Cross country cooperation and coordination are the best effective tools to prevent, detect and sanction the corruption that contributes to the problem of illegal cross border flows. Efforts have to be focused unto governance issues to help build transparency, accountability and integrity of institutions and major stake holders (Craig, Finn, 2011).

METHODS AND APPROACHES

For data collection primary and secondary sources were used. The secondary sources include

- CIAA annual reports and published bulletins
- Reports of Transparency International/Nepal
- Journals and articles like publications
- Surfing web nets

Primary data were collected through questionnaire and interview tools. It sounds good but not comfortable for concern likely people. This topic as seems exciting is so interesting enough to attract people to listen but reluctant to speak openly their personal views. This research paper author himself being government employee has the privilege of sharing experience. Conceptual framework the analytical way is worked out. Components of justification for selection of field survey method as the main research method, use of study tools, data collection and analysis procedures, validity and reliability of the study tools are sketched in details under the respective readings. Qualitative methods were applicable for this research study. Practical methods like visiting people in person and seeing in fields for the collection of information, interviews of civilian bureaucrats, police officers, local laymen, journalists, political affiliated people, traders, farmers and students like intellectual people were talked and encountered.

THEORETICAL DISCUSSION

Nepalese soil and its people have experienced the greatest changes in politics to ruling system of the country discarding age old monarchy. Armed and unarmed movements of Nepalese people since 1996 have restructured socio-political power structures of the country. The country has currently an ad hoc
Economically, Nepal is facing a downturn in industrial sectors, price hikes and irregularities affecting the whole country, particularly the general population compelled to live below poverty line not even a USD per day. It is more aggravated by shortage of electricity supply up to 16 hours of load shedding a day. Naturally it would have negative impact on day to day life of any layman, commercial industry and public services as well (Annual Report, 2012). Generating electricity power is beyond its capability throughout the whole year on pretext of lack of water during the summer, deposit of silt on river belt reducing collection water during the rainy season and during the winter flow of limited water from the sources of Himalayas.

Good governance as a matter of fact conceptually is applicable in all the organs of government, legislature, judiciary, media, private sector, corporate sector, trade unions and even non-government organizations. Public accountability and transparency are reciprocally relevant for one another. Bad governance is counterproductive not only to socio-economic and political development but all other interlinked matters as well. The yardstick of measuring bad governance are corruption, injustices, inequity, integration crisis, ethno religious feuds and a lot others. Corruption issues are the most critical in terms of morality. Corruption causes the country laden with poverty damaging the image of good governance tarnishing reputation of the country. Consequently it makes the country people further vulnerable to manipulation. In order to cherish good governance policies of anti-corruption must be put in place. The legislature and the judiciary also should be operational and agile to self responsibilities as they are inevitable in good democratic governance (Ilufoye, 2010).

Good governance means accountability in all the sectors of its ramifications. It also means the rule of law in unfettered judiciary that denotes freedom of expression and option for political association.

FINDINGS

Illegal trades along borderlines of Nepal worsen the economy of the country and its neighbors. Though not official Federation of Nepal Chamber of Commerce and Industries has the statistics of illicit trade along the Indo-Nepal border alone amounts to 38.9 per cent of Nepal's foreign trade. Annually Nepal has loss of around Rs 3 billion in royalty because of the black market (Pokharel, 2012).

Nepal border areas seem to be well misused by civil servants and smuggling networks with their behaviors of give and take practice in bribery, corruptibility and arbitrariness. These all activities make Nepal look weak and corrupt state and its governance mechanism poor. Further the borders people seem take it as their right to transcend the state and boundaries (Benjamin 2009, p 19).

Nepal has high demand for gold particularly in the winter season as for wedding ceremonies regardless of price hike. The government restriction policy of import to certain items indirectly leads to their illegal incoming to Nepal. The political instability, continuous crisis of electricity, shortage of fuel have created environment for business enterprises to convert their properties into gold. Ups and downs of capital market have helped grow this trend. Gold import policy of the government has not only control but helped grey traders (Sarkar, 2012).

Nepal has become a hub for illicit trade of red sandalwood from India to Tibet. Since Nepal is signatory of the Convention on International Trade in Endangered Species of wild fauna and flora (CITES) it cannot let red sandal wood pass through Nepal to China. In November 2012 a consignment of smuggling sea horses (species of tiny animal in deep sea) en route to China were caught in Kathmandu. Similarly, precious timber, herbs and wildlife from Nepal highlands are stealthily taken to India and China. Illegally traded single piece of thirty millimeter Yarsagumba (precious herb from
Himalayan high land) alone is worth thousands. Economists opine such black market trades comprise a considerable portion of Nepalese GDP. Studies show Birganj has the highest amount of unauthorized trade each year followed by Biratnagar and Bhairahawa the Nepal India border line Nepalese cities (Pokharel, 2012).

Finance Ministry of Nepal had directed the department to strictly implement the Maximum Retail Price provision at the earliest. The Department of Customs has made it mandatory to declare the MRP of goods having high volume and value in trade and revenue (The Himalayan Times, 2012).

Nepal customs and revenue departments have good number of Armed Police Force personnel under their command deployed to help them. From the very beginning of APF deployment in coordination with customs and revenue the collection of revenue and tax have remarkable progress. APF, a paramilitary was raised in the year 2000 during the days of insurgency especially to control international borderlines with India and China. Currently APF is engaged in safeguarding Nepal territory border. APF has mandated tasks as;

a) to control any ongoing or would be armed conflict within the country,
b) to control any ongoing or would be armed rebellion or separatist activities within the country,
c) to control any ongoing or would be terrorist activities within the country,
d) to control any ongoing or would be riot within the country,
e) to assist in rendering relief to natural calamity or epidemic victims,
f) to rescue any citizen or else from hostage captivity or in the event of occurrence of heinous and serious crimes or unrest of grave nature or of anticipation,
g) to guard border of the country,
h) to assist under the Nepalese Army in condition of ingress,
i) to protect public vital installations, infrastructures and other facilities assigned by the Government of Nepal,
j) to protect the personalities and public vital installations, institutes and other facilities considered to be given protection by the Govt. of Nepal,
k) to perform tasks assigned as per this act and under its regulations or in accordance to other prevalent laws,
l) to perform other tasks assigned from time to time by the Govt. of Nepal.

* "Source: Armed Police Act 2058"

APF has been doing campaign of anti women trafficking awareness programs at borderlines particularly public points of exit entry used for thoroughfares. In this regard seven widely spoken local languages of Nepalese, Tharu, Tamang, Bhojpuri, Maithili, Hindi, and Baitadi audio recordings are played aloud. The audio asks the passersby whether they know the companion to which destination and where do they travel to. Imposters in guise of husband or guardians lying the law enforcement agencies at the border make their way to brothels. Upon encounter with officials they are requested to speak the truth for their own safety. This way girls heading for unknown fortune are saved and APF is there always with the public for their security.

There is a non government organization named Maiti Nepal that works at Nepal India border lines at different points rescuing girls getting trafficked to India. It has rescued more than hundreds of girls and women from getting sold. According to the data of Maiti Nepal, 200,000 Nepalese girls are forced to prostitution in India. The Feminist Daily News Wire states every year 5,000 to 7,000 Nepalese women and girls are taken to Indian brothels. Total estimation is around 150,000 Nepalese women victims of abominable flesh trade (New Tactics, 2012).

The then Minister for Home Affairs in the year 2010 remained effortful in improving the law and order situation in the country by introducing special security program. With the implementation of that
program, the country’s security situation improved considerably. Focus of the special security program was on trans-border security, activities of the armed groups in different parts of the country and the ongoing Tibetan protests in the capital (Gorkhapatra, 2012). Home Secretary level talks between India and Nepal on 31 October 2008, reviewed the security and management of the porous India-Nepal border. The 16 member Nepalese delegation was led by Home Secretary and the Indian team by Union Home Secretary. The discussion was centered on effective cooperation, combating terrorism, insurgent groups, circulation of Fake Indian Currency Notes (FICN) and sharing information (VK, 2008).

The Indian government has decided to depute Jammu and Kashmir Police along Sashatra Seema Bal (SSB) to plug Nepal routes used by Kashmiri militants to re-enter the valley using Indian government's new surrender policy as a cover. The J and K Police deployment could be of Spotters, the former militants to nab youths attempting to enter India through Nepal border after the state government announced Rehabilitation Policy in 2010. Former militants' crossing over to Pakistan-occupied Kashmir (PoK) between 1989 and 2009 would be considered for safe return under that special policy. However there were some cases found in the past few months in which former militants holed in PoK entering into the Valley through Nepal route. Later they claimed having returned for the Rehabilitation Policy 2010. Some of the youths were also found to be re-cycled into militancy (Agencies, 2012).

There used to be frequent Nepal and India bilateral talks on issues of smuggling, trafficking of narcotic drugs, women and girls, arms and ammunition, border encroachment, and strengthening of border security matters. In continuation of the tradition a seven-member team led by Inspector General of APF held talks in New Delhi (3-5 Dec2012) with officials of SSB. The SSB was represented by its Chief the Director General (nepalnews.com 2012).

Smugglers and their associates or middlemen bribe officials at customs or revenue offices to pass their transport to and fro of the borders. Such illegal transactions are corruption and nothing else. Corruption brings criminal networks together at different levels (Transparency International 2008). In context of Nepal a void in governance, weak border controls, corruption among civil servants have facilitated networking of black market traders of consumable items to phone SIM cards (Craig, Finn, 2011). On several occasions Pakistani and Bangladeshi nationals were apprehended in Nepal with large amount of fake Indian currency notes.

The Inter-Service Intelligence (ISI) of Pakistan probably selected the plain land (Terai) region of Nepal for FICN operations because of the following reasons:

- Unguarded and porous border
- Extreme poverty and under-development on both sides of the border
- High unemployment along the India-Nepal border areas
- The presence of criminal gangs in the borders and smuggling mafia. Besides the Terai is also a refuge for criminals from Bihar, Uttar Pradesh and West Bengal.
- A massive presence of ‘D company’ agents in the Terai who are patronized and funded by ISI (VK, 2008)

Uttar Pradesh Chief Minister on 16 April 2012 demanded Special Policing from the central government of India to check any anti-national activities along Nepal border. He tried to justify it saying due to strict vigil on the country's borders with Pakistan and Bangladesh, the possibility of anti-social and terrorist activity along the Indo-Nepal border has heightened. He also asked for establishing integrated check-posts and special police arrangements to control anti-national activities across the borderline of 550 kms with Nepal (Parsai, 2012).

Annually government makes announcement through media banning fire crackers during the days of Dashain and Dipawali holidays. Mere making announcements are not enough. The best option could be on-the-spot fines. Traffic police in Nepal have introduced alcohol testing with breathalyzer device and the output in exciting. Night clubs like houses have their grievances due to policy of driving
without drinking made their customers refrain from alcohol leaving dwindled their business. As a result, lot number of pubs and evening restaurants got padlocked. Smuggled vehicles and encroachment of public land property is common in Nepal side border. Politically affiliated thugs upon apprehension get released due to their undue pressure to concern authorities. There are large number of unreported cases of abductions and extortions along border line.

Nepal has anti-corruption integrity promoting policies but their implementation is noteworthy. One of the noticeable points is the ineffectiveness in cross-border control. It has become a normal phenomenon of allegations of corruption to government officials at the customs and immigrations (Global Integrity 2009b) (Craig, Finn, 2011). The government has several anti-corruption mesure of legal instruments and institutional structures against corruption such as;

### Anti-Corruption Agencies in Nepal (List of State-Level Anti-Corruption Agencies)

<table>
<thead>
<tr>
<th>Anti-Corruption Agencies</th>
<th>Type</th>
<th>Major Focus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commission for the Investigation of Abuse of Authority (CIAA)</td>
<td>Constitutional body</td>
<td>Investigation and prosecution of cases of corruption and improper conduct</td>
</tr>
<tr>
<td>National Vigilance Centre (NVC)</td>
<td>Prime Minister's Office</td>
<td>Awareness raising and corruption prevention</td>
</tr>
<tr>
<td>Special Court</td>
<td>Judiciary</td>
<td>Adjudication of corruption cases</td>
</tr>
<tr>
<td>Office of Attorney General</td>
<td>Constitutional</td>
<td>Public prosecutor</td>
</tr>
<tr>
<td>Judicial Council</td>
<td>Constitutional</td>
<td>Combating corruption in judiciary</td>
</tr>
<tr>
<td>Revenue Investigation Department</td>
<td>Ministry of Finance</td>
<td>Detection of revenue leakage</td>
</tr>
<tr>
<td>Independent Review Committee</td>
<td>Committee under Public Procurement Act</td>
<td>Corruption related to public procurement over Rs30 million.</td>
</tr>
<tr>
<td>Central Arrear Collection Office</td>
<td>Financial Comptroller/Ministry of Finance</td>
<td>Collection of government dues and arrears</td>
</tr>
<tr>
<td>Parliamentary Committees including Public Accounts Committee and State Affairs Committee</td>
<td>Parliament</td>
<td>Parliament oversight agencies</td>
</tr>
<tr>
<td>Office of Auditor General</td>
<td>Constitutional</td>
<td>Auditing of books of accounts</td>
</tr>
<tr>
<td>Offices of Regional Administrators (5 offices) and Chief District Officers (75)</td>
<td>Ministry of Home</td>
<td>Handling regional and district-level corruption cases remaining within the authorities delegated by CIAA</td>
</tr>
<tr>
<td>Office of Financial Comptroller</td>
<td>Ministry of Finance</td>
<td>Government budgetary control</td>
</tr>
</tbody>
</table>

Source: (Nirola, 2008).

A thorough reorientation is needed of administrative and political leaders to strengthen local governance. Then locally required skill needs to be imparted to people. Power needs to be devolved so that there is a strengthening of local governance (POLSAN, 2001). District level offices of Chief District Officer (CDO), Land Revenue, Court, Customs and others of public contacts are main hubs of exploitation and corruption.

There are debates about decentralization of government, political units and administrative units but it seems only corruption has been decentralized. It is clear until and unless people are given opportunities of inclusion the much talked good governance would be far apart. There are instances of delegating
power to the politician's protégé rather than to devolve favoring total nepotism. Politicians tend to be non-cooperative to devolution of power. The party politics have influence in all the government organs hindering normal day to day works and development. Decentralization means taking power closest to the people (POLSAN, 2001).

Normally parliamentary democracy guarantees the human and fundamental rights of the citizen. Though Nepal has got democratic system in 2006 it is facing a number of problems of poor governance. Nepal needs to address these problems with full humane understanding and greater community participation programs. This could be attained only through informed citizenry (Good Governance, 2012).

Civic engagement is taken for active participation. The trust between the government and its people is appreciated. Loss of trust can mean rejection of the people of their government (Parigi, Geeta, Rameesh, 2004, p.3).

Hello Sarkar a public call program direct on air with ruling prime minister was initiated in the year 2012. The concept is to win heart and mind of people and raise confidence in the government and the new system of republic democracy. It listens to grievances and grudges of public unheard. It shows the government interest in favor of common people of the country (Pushkar, 2012).

Every citizen of a state has born right to access information and in some countries it is fundamental right also. The foremost aim of any government would be providing information to its people to promote openness, make feel liberalism, transparency and accountability in administration, side by side also to let public participation in governance concerns. Nepal government has made it known to its people to get information on basis of requirement from respective government offices. Mandatory rules are made for the government offices to display their charter outside to the public and they are implemented. A District Office can be cited as a good example in district headquarters as they have put display boards of their charter for public notice. The United Nations Development Program (UNDP 1999) sees government and governance as being synonymous. It is important to note that government and governance are inter related.

CONCLUSION

Nepalese Prime Minister announced on 23 July 2012 the strategy and work plan to implement the United Nations Convention against Corruption, which Nepal had ratified on February 23 last year. On 9 December 2012 the PM at his office in Singhdarbar, Kathmandu issued directives and instruction in this matter to all top ranking policy level government bureaucrats to comply with the notice and information released on behalf of the government. The PM on 29 August 2012 admitted his failures accusing opposition parties. He did gloat over all his achievements of last one year (Himalayan News Service, 2012). For good governance the requisite is that all the actors engage in process of governance, adhere to well structured codes of conduct and their public affairs. Nepal government had reviewed its Foreign Aid Policy of 2002 in February 2008. Nepal Government has created several anti-corruption mesures of legal instruments and institutional structures against corruption.

- Corruption and poor governance are complementary to each other and they worsen the economy and development of country.
- System and government need to do more for more political commitment, strong legal instruments, and effective enforcement mechanism.
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