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Historical Roots of Impunity and Its Role in Perpetuating Corruption in Nepal

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Abstract

Corruption, a pervasive global issue, is particularly pronounced in countries where impunity and lawlessness prevail. This article examines the complex relationship between impunity and corruption, highlighting how unchecked power and weak legal frameworks allow corruption to flourish. In Nepal, the historical context of impunity, dating back to the Rana regime and continuing through various political systems, has significantly contributed to the institutionalization of corruption. The lack of accountability for the Rana family and high-level officials has created an environment where corruption thrives unchallenged during Rana Regime. Instances from Nepal's history, such as the Panchayat's "Panchakhat Mafi" and the vacuum in the Commission for the Investigation of Abuse of Authority (CIAA) in long time in republican regime, illustrate how legal provisions have been manipulated to protect the powerful. This study combined historical analysis and semi-structured interviews with key informants to examine the evolution of impunity and its impact on corruption in Nepal, using thematic analysis to identify patterns and assess reforms. This study underscores that efforts to combat corruption will remain ineffective without robust watchdog institutions and genuine enforcement of the law. The article argues that dismantling impunity is essential for eradicating corruption and achieving good governance in Nepal.

Keywords: impunity, corruption, anti-corruption, institutional weakness, accountability, transparency

Historical Roots of Impunity and Its Role in Perpetuating Corruption in Nepal

Corruption is a pervasive issue that undermines the integrity of public institutions, erodes trust in governance, and stifles economic development (Ahmed, 2023). In many countries, corruption is not merely a consequence of weak institutions but is deeply rooted in a culture of impunity, where powerful individuals and groups are shielded from accountability. This is particularly evident in Nepal, where historical and contemporary practices of impunity have allowed corruption to become entrenched in various levels of government (Ghimire, 2018).

The relationship between impunity and corruption in Nepal is complicated, shaped by the country's unique socio-political dynamics (Ghimire, 2015). During the Rana regime and the Panchayat regime, rulers, high-level officials and political elites operated above the law, creating an environment where corruption could flourish without fear of punishment. Even in the post-democratic era, despite efforts to establish stronger anti-corruption institutions like CIAA, the legacy of impunity continues to hinder the effective enforcement of laws and the prosecution of corrupt practices.

This study tries to explore how impunity has perpetuated corruption in Nepal's public institutions by comparing the mechanisms of corruption and the role of impunity in both the pre- and post-democratic eras. By understanding the historical context and the factors that have sustained this culture of impunity, the study aims to provide insights into the challenges of combating corruption in Nepal.

Methodology

This study employed a qualitative study approach to explore the relationship between impunity and corruption in Nepal, focusing on both pre- and post-democratic eras. It combined historical analysis and key informants'

interview to provide a comprehensive understanding of this relationship. Historical analysis involved reviewing legal texts, government records, media contents, and scholarly works to trace the impunity and its impact on corruption across different political regimes. Semi-structured interviews with seven key informants including former commissioner of CIAA, government officials, legal experts, anti-corruption activists, and scholars provided insights into the perceptions of impunity and the effectiveness of anti-corruption measures. The data from these sources were analyzed using thematic analysis which involved coding the data, identifying patterns, grouping them into themes, refining these themes, and interpreting them to uncover meaningful insights and connections related to the research question to identify recurring patterns and assess the impact of legal and institutional reforms on impunity and corruption. Ethical considerations in this study included obtaining informed consent from all key informants, ensuring the confidentiality and anonymity of their responses, and handling sensitive data with integrity to avoid any harm or bias in the analysis of impunity and corruption in Nepal.

Impunity and Corruption in Nepal: A Historical Glimpse

Corruption is a serious problem in countries where impunity and lawlessness prevail. One of the key factors contributing to the prevalence of corruption is the culture of impunity that has taken root in the country's public institutions. The endemic of corruption is a complicated system that pervades nearly all state institutions (Tum, 2001). According to Tum, impunity is the lack of rule of law and lawful act. The emergence of impunity gives rise to corruption. Lack of lawful acts increases monopoly, and the possibility of political corruption also increases (Bhattarai & Khatiwada, 2006).

Impunity means exemption from punishment or the consequences of one's actions, it is a significant obstacle to effectively combating corruption. Flaws have plagued the criminal justice system in Nepal, and it is not sufficient to prevent

corrupt activities (Parajuli, 2010). Many corrupt acts are outside the purview of the judicial system, and the success rate of corruption cases is low, with only around 40% resulting in convictions. The criminal justice system is also heavily affected by delays, further undermining its effectiveness in holding corrupt individuals accountable (Parajuli, 2010).

Corruption is also deep-rooted in Nepalese society, manifesting itself in various forms such as bribery, embezzlement, nepotism, fraud, and abuse of power (Subedi, 2005). The culture of impunity in Nepal is perpetuated by several factors, including the nexus between politicians and business interests, vote-buying, and the misuse of public funds (Transparency International, 2023). The capture of state institutions and systems by powerful individuals or groups intensifies the problem, preventing effective checks and balances (Upadhayay, 2017).

Tum (2001) asserts that corruption undermines the justice system by impairing its effectiveness. When acts of corruption involving high-ranking government or state officials are exposed, the institutions responsible for prosecuting these cases either fail to conduct investigations or deliver acquittals. As said by Tum, during the traditional types of regimes like Rana regime, the high-level rulers and administrators would not be investigated for any kind of financial irregularities or corruption. If they were investigated, they would not be punished (Regmi, 1975). The same situation was repeated during the modern regimes too. When the government of Dr. K.I. Singh tried to investigate corruption, his government got sacked in a very short time (Pangeni, 2005). In 1976, the contemporary Corruption Control Commission investigated 1 hundred 25 persons including the contemporary Prime minister Dr. Tusali Giri, Finance Minister Dr. Prakash Chandra Lohani for garment scandal and had cased files against them. But they got bail in a short time saying they were free from guilt (Dhakal, 2003).

Similarly, the Panchayat regime had the provision of forgiving the politicians from any kind of crimes if the Panchayat rulers wanted. It was called *Panchakhat Mafi*. During the Panchayat regime, if the authorities of palace, *Bhardars* and center of Panchayat politics were made happy then any kind of crime would be forgiven. When the Panchayat system was supported, corruption and other kinds of crime would be forgiven. (ReMAC Nepal, 2006). The contemporary Agriculture Minister Rabindra Nath Sharma was convicted in Cow/Ass scandal in 1979, but he was not investigated for this (Dhakal, 2003). He assumed the role of Finance Minister in 1997. During his tenure, the gold smuggling incident occurred at Tribhuvan International Airport. The parliamentary committee investigated, identified the guilt and presented the report (Dhakal, 2003). No investigation was carried out into this report. Neither the CIAA nor the government paid any attention to this. Due to that *Panchakhat Mafi* the impunity crossed the limit during that time. There was no parliamentary committee or CIAA as there is in the democratic regime. So, during the Panchayat regime, the politicians were free of any kind of corruption, and they were never punished. This impunity led to extensive corruption activities during the Panchayat regime (ReMAC Nepal, 2006).

In 1996, to extend the term of Prime Minister Sher Bahadur Deuba's government, five ministers were sent to Bangkok simultaneously under the pretense of health check-ups, each receiving 2,000 US dollars. The CIAA investigated these ministers and confirmed political corruption. However, the Commission did not press any charges against them (Thapa, 2001). This was because the CIAA act formed in 1992 did not have provision of filing the case against the political leaders. The CIAA Act 1992 was made in such a way that this act was not applicable to the political parties' leaders and cadres. In the act, the provision was made that if Ministers were to be punished then it had to get consent from the Prime Minister while from the speaker of the parliament for the

members of the parliament (Government of Nepal, 1991). This has created the situation; the politicians are not punished for any kind of financial crime or corruption. On April 17, 2002, the House of Representatives promulgated four acts at a time including corruption control act, CIAA act, impeachment act and Special court act. All these acts had the aim of controlling corruption. All the parties in the House of Representatives passed these acts by discussing them in parliament rather than forming the committee (Himal Khabarpatrika, 2002). When no action is taken against the political leaders involved in financial irregularities, smuggling and corruption, this increases impunity. Due to this kind of impunity political corruption goes on institutionalizing. When these leaders are not investigated for and brought into the legal premises, this increases impunity. When the respective body does not give interest in investigating against any leader though they have enough evidence, this has increased political corruption. While the election for the Prime Minister was going on in 2010, some news came into publicity that the leader of UCPN Maoist, Krishna Bahadur Mahara asked Rs. 50 crores with a Chinese through telephone for buying the vote of CA members (The Himalayan Times, 2024). No investigation was carried out into this event. Another event came into publicity in 2012 where Kaski District leaders asked for 50 lakh rupees with a contractor to grant the contract who had bid the double of estimated cost (The Himalayan Times, 2019). The one who was involved in this scandal accepted their fault. While these types of news were being published the UCPN Maoist party did not help in investigating its leaders and cadres. Rather, it protected them.

This trend made an increase of impunity among politicians and cadres. When they are aware that whatever crime they commit, they shall be excused; the events of corruption occur one after another. While analyzing the events in Nepal, the corruption and irregularities from the high-level politicians are not

investigated, if investigated they get bail immediately. As said by Tum this has been promoting for the political corruption in Nepal.

It appears that political parties are exacerbating impunity by creating obstacles for bodies responsible for investigating and prosecuting corruption. They have been hesitant to appoint new authorities out of fear that they might be investigated and charged for corruption and financial irregularities. From November 3, 2006, when the term of the then Chief Commissioner of the CIAA, Surya Nath Upadhyaya, ended, the CIAA was without a chief commissioner until May 7, 2013. During this period, the commission refrained from investigating politicians or pursuing cases against them. Consequently, the CIAA did not investigate scandals such as the Sudan scandal, transformer scandal, and cantonment scandal involving politicians (Bhattarai, 2013). Impunity is a key factor contributing to the failure to investigate and prosecute such scandals. When state mechanisms are weakened, agencies like the CIAA fail to investigate high-level politicians. The legal provision that prevents the CIAA from investigating decisions made by the cabinet further complicates the issue. As a result, even minor departmental decisions are subject to cabinet approval, which has further facilitated corruption.

Impunity refers to the exemption from punishment and fines, often prevalent in countries where the rule of law is weak, and corruption is widespread (Avakian, 2022). The absence of legal accountability in a state constitutes impunity. This lack of accountability fosters corruption and financial misconduct, contributes to monopolistic practices, and adversely affects economic growth and development (Tum, 2001). Impunity negatively impacts a country's development by encouraging high-level politicians, bureaucrats, and other officials to engage in further corruption and financial crimes when they are not held accountable for their actions.

Tum (2001) asserts that in the absence of robust watchdog institutions, impunity becomes the solid foundation upon which corrupt systems are established. Without dismantling impunity, all attempts to eradicate corruption are destined to fail. There is nothing more reinforcing for corrupt individuals than witnessing their reflection in the same mirror of impunity that has been exploited by numerous public officials, military leaders, businesspeople, and politicians globally. Tum also notes that in Nepal, political corruption is escalating due to the prevalence of impunity.

Law is for Only Those Who Do Not Have Power

The trend of punishing only those without power continued even during the democratic regime, while those in positions of authority involved in major corruption and criminal activities often escaped accountability. Actions are typically taken against lower-level officials, while high-ranking individuals remain unpunished. Various studies highlight that corruption and poor leadership significantly impact governance and development in third-world countries like Nepal. Impunity plays a crucial role in exacerbating political corruption in Nepal. The problem of impunity was notably severe during traditional regimes, such as the Rana era, when the law applied only to lower-level employees and laborers, with the Ranas being above the law. This situation fostered corruption at higher levels and reinforced the notion that influential individuals were above accountability. Regarding the increase in impunity during the Rana regime, Nepal (2012) notes:

There was the provision of final audit from Kumarichwok office during the Rana regime. When Judda Shamsher was Prime Minister, Ram Shamsher was Badahakim in Mahottari. When the auditor from the Kumarichwok office checked the account of Mahottari he found some irregularities. According to the law of that time, the auditor sanctioned Rs.1 for Ram Shamsher as fine for irregularities, he was furious with the

auditor. He came to Kathmandu and proclaimed in front of the contemporary Prime Minister Judda Shamsher that the tenant is sanctioning fine against the ruler; it was not fair. Then Judda Shamsher ordered that if Kumarichwok sanctioned any punishment to the Ranas the fine should be paid by the person who is one level below the Rana. (p.390)

A former Chief Commissioner of CIAA also agrees with it. He says:

Why does Nepal remain poor and underdeveloped? The answer lies in corruption, weak governance, and ineffective leadership. But why do these issues persist in Nepal? The root cause is impunity, which means that criminal authorities face no punishment. This lack of accountability perpetuates a cycle of mismanagement, weak governance, corruption, and ineffective leadership, all of which significantly impede the country's development. Impunity is a key factor enabling and sustaining these problems.

The Rana rulers earned huge property illegally for 104 years. This trend continued during the Panchayat regime as well. During the Rana Regime, if people objected to the property of the rulers, they were called anti-nationalist. To object to the wrong ruler was equal to objecting to the rule. At that time, there were not any watchdog institutions like CIAA. The rulers were outside the premises of punishment. There was a trend of *Panchakhat Mafi* during the Panchayat Regime by persuading the officials, and political power. If the criminal people support to the Panchayat, every kind of crime was forgiven (ReMAC Nepal, 2006).

This situation intensified more during the restoration of democracy in 1990. After the people's movement in 1990, Janardan Mallik Commission was formed to investigate against the Panchayat rulers who earned by misusing power and national properties. The commission had made a list of those who repressed the democratic movement of 1990. Similarly, an investigation commission was

formed for investigation of irregularities and repression over the people's movement in 2006. The contemporary Home Minister Kamal Thapa had spent 22.479 million rupees, the power and national treasury was misused extensively. However, even after the establishment of democracy no action was taken against him (Thapa, 2012).

Impunity has become an important part of governance in the history of Nepal. The high-level politicians and power holders never acted, but the low-level employees are taken action. This trend has been continuing since the Rana regime. While high level officials get protection for any kind of crime, this increases more and more corruption in the country and hence there is negative impact on the development process in Nepal. (p. 333)

Impunity and corruption have plagued Nepal since the era of the Rana regime. The Ranas ruled with absolute power, exploiting the law to secure their dominance without fear of repercussions. This pattern of impunity and corruption persisted beyond the Rana era, embedding itself deeply in Nepalese society.

Despite political changes following the establishment of democracy, impunity remained entrenched. High-ranking leaders faced no real threat of punishment for their corrupt actions or financial misconduct. Instead, these individuals gained more power, evading legal consequences and influencing the legal system to shield themselves. Consequently, efforts to combat corruption were ineffective, and corruption became deeply ingrained in institutional practices. A researcher studying corruption notes:

A thorough hasination of Nepal's history reveals that powerful individuals involved in corruption have largely escaped consequences, with only a few exceptions. Despite their significant economic misconduct and corrupt activities, they maintain their political influence. This prevailing impunity

has exacerbated corruption, as it fosters a climate where perpetrators feel no fear of punishment.

Such impunity not only emboldens those who engage in corruption but also expands its reach. Corruption, in this context, transcends personal gain and becomes ingrained in societal norms, with individuals perceiving no risk of legal repercussions. Consequently, impunity and corruption reinforce each other, transforming corruption from a mere crime into a pervasive cultural phenomenon in Nepal.

High Profile Never Got Punished

Examining Nepal's history reveals that high-profile leaders and administrators have frequently avoided punishment. Since the restoration of democracy in 1990, serious investigations into high-level politicians accused of corruption have been lacking. Weak investigative mechanisms and political protection have allowed corrupt leaders to evade both investigation and punishment (Bhattarai et al., 2005). Khum Bahadur Khadka, Jaya Prakash Prasad Gupta, and Chiranjibi Wagle are notable exceptions.

On October 13, 2003, the CIAA detained former minister Govinda Raj Joshi and formally charged him three months later in the special court. Joshi was accused of illegally acquiring Rs. 39.3 million during his tenure (Bhattarai et al., 2005). As of 2021, his case remains pending in the Supreme Court. Similarly, Parliament's PAC found that former minister Bim Bahadur Rawal of the CPN (UML) had engaged in malpractice while approving a 2001 deal to lease an aircraft from China South-West Airlines for NAC (PAC, 2001). However, no investigation followed.

Girija Prasad Koirala faced numerous corruption allegations. In 1993, the PAC investigated and confirmed Koirala's misuse of authority, resulting in Rs. 395.5 million in losses for the Corporation (Thapa, 2074). No action was taken. Nine years later, during Koirala's second term as Prime Minister, the Lauda

scandal emerged. In late 2000, NAC leased a Boeing 767-300 from Lauda Air at \$3,350 per flight hour for 18 months, with an additional crew charge of \$350 per flight hour. The deal was finalized without formal bidding. The CIAA investigated and identified errors in the cabinet's decision, but no action was taken against Koirala. The PAC also found faults in the cabinet's decision, noting that the government violated NAC's policy by leasing aircraft over 10 years old (PAC, 2001). The CIAA filed charges against the tourism minister and nine NAC and government officials in the Appeal Court in Lalitpur for embezzling Rs. 380 million, including NAC's losses. Despite this, no action was taken against Koirala, and significant cases of money laundering remain protected by political and administrative influence (Acharya, 2019). Several corruption cases brought to public attention have been investigated by parliamentary and special committees, which have confirmed corruption and recommended further action to the CIAA. However, many of these scandals have yet to be investigated by the CIAA.

The involvement of political leaders in corruption cases in Nepal has often gone uninvestigated. For instance, despite clear directives for investigation, significant cases such as the Chamelia Hydropower Project irregularity and the Taragaun Development Committee's illegal sale of land remain untouched by the CIAA. The same pattern of inaction is observed in major scandals like the Nepal Oil Corporation's land purchase and the Nepal Trust land deal, where substantial amounts of money were misappropriated but no investigations were conducted.

Similarly, high-profile cases involving influential figures, such as the Shivaraj Shrestha money laundering scandal and the Gokul Baskota commission incident, highlight the systemic impunity within the political sphere. Despite overwhelming evidence and recommendations for action from various parliamentary committees, the CIAA has consistently failed to investigate or prosecute those involved. This trend extends to other significant cases, including the Widebody purchase scandal, the Ganesh Thapa corruption case, and the Omni

Business Corporate International agreement during the COVID-19 pandemic, where no substantial investigative actions were taken despite clear indications of corruption.

High-profile corruption cases in Nepal involve substantial amounts of money, often linked to high-level politicians and bureaucrats. If these significant funds had been directed towards the country's infrastructure and public services, Nepal could have avoided issues such as inadequate roads, poverty, poor or nonexistent drinking water supply, and high unemployment. Instead, substantial sums are embezzled by politicians, bureaucrats, and businessmen, who transfer the money to developed countries, undermining the nation's development.

The scandals illustrate the close connection between financial corruption and national development in Nepal. Bribery and the illegal siphoning of public funds into private hands—funds that could otherwise be used for public goods and development—represent fundamental forms of financial corruption. Such corruption erodes democracy, undermines state legitimacy, stifles economic growth, and threatens citizens' freedom and security, thereby obstructing national development. The table above highlights several complaints filed with the CIAA that remain uninvestigated, indicating a growing trend of leaving scandals unresolved. Meanwhile, lower-level employees are being arrested under the guise of sting operations, whose numbers are depicted in Table 1.

Table 1

Sting Operation Cases

FY	Total Case	Bribe related Case	Sting Operation
2017/18	194	97	36
2018/19	351	147	132
2019/20	440	206	181

Note. The information provided in the table is based on CIAA Annual Reports.

The CIAA has been disregarding the big corruption cases and acting against the lower position government employees. Among 181 sting operation cases in the fiscal year 2019/20, 99 were less cases of bribes less than 25 thousand. Similarly, there were 43 cases of bribes of 25 thousand to 100 thousand and more than 39 cases of bribes more than 100 thousand rupees. A total of 277 employees were arrested. Among them, 16 were office assistants and 69 were non-gazette first class employees (CIAA, 2020). The researcher says:

The complaints of huge corruption cases have been made to the CIAA, which have remained uninvestigated. Leaving few exceptions, CIAA has been entangling itself in cases of corruption involving meagre amounts of money. While corruption has been flourishing in the country, the country is drowning in the vicious circle of corruption.

The flourishing impunity in Nepal is of two types. First, those who are in power and government make laws in their favor excluding them from the premises of punishment. No investigation can be made into them. Second, they have a foul aura over the institutions that are responsible for acting against corruption. The officers in these institutions are appointed in their will and are escaped from being taken action. This kind of impunity has been contributing to the development of underdevelopment of Nepal.

The situation of impunity has been deteriorating, with powerful individuals remaining beyond the reach of punishment. The mindset of centralized governance has persisted despite changes in political regimes, and the governance system itself has not evolved. Consequently, the country continues to experience stagnation and underdevelopment.

Conclusion

The examination of impunity's role in perpetuating corruption within Nepal's public institutions reveals a complex interplay between historical legacies and contemporary governance challenges. Impunity has been a longstanding issue

in Nepal, dating back to the Rana era, and corruption appears to be deeply entrenched in its foundations. Despite changes in government, impunity has remained unchanged. Since the Rana period, influential individuals have undermined the legal system to advance their own interests, eroding the rule of law. This pattern continued during the Panchayat era, where powerful figures institutionalized corruption and evaded legal consequences. Even with the return of democracy, the culture of impunity persisted, exacerbating corruption and further entrenching it within state institutions. Despite the establishment of anti-corruption bodies such as the CIAA, the effectiveness of these institutions has been severely compromised by legal loopholes and political interference. The CIAA's inability to prosecute powerful individuals, often due to the requirement of governmental consent, exemplifies the systemic barriers that perpetuate impunity. This situation is further exacerbated by the public perception that corruption is not only tolerated but often rewarded, leading to widespread disillusionment among citizens. It clearly shows that there is paradoxical coexistence of democracy and corruption prevail in Nepal. It highlights the challenges of weak institutional accountability and the entrenched culture of impunity that undermines democratic principles.

When the legal system is weak and state institutions lack transparency and accountability, the connection between impunity and corruption becomes even more pronounced. In Nepal, the disparities and irregularities among political leaders, administrative officials, and the judiciary exacerbate this issue. Historical evidence indicates that when those in power misuse the legal framework, it erodes public trust in the system, making anti-corruption efforts less effective. Therefore, achieving a corruption-free society in Nepal hinges on eliminating impunity. To address this, both legal reforms and a restructuring of state institutions are crucial.

To dismantle the pervasive culture of impunity, it is essential for Nepal to implement comprehensive reforms that strengthen accountability mechanisms and

promote transparency in governance. This includes enhancing the capacity and independence of anti-corruption institutions, ensuring that legal provisions are applied uniformly, and fostering a political culture that prioritizes integrity over personal gain. Ending the culture of impunity and combating corruption requires a critical examination of how democratic processes are co-opted by corrupt practices, and proposing reforms to strengthen transparency, rule of law, and civic engagement to mitigate this contradiction.

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