

## Nepal: Civil Society Report by Transparency International Nepal

An input to the UNCAC Implementation Review Mechanism:  
Second year of review of UNCAC Chapters II and V

**14 November 2023**

This is the executive summary of a civil society parallel report from March 2023 reviewing Nepal’s implementation and enforcement of selected articles in UN Convention against Corruption (UNCAC) Chapters II (Preventive Measures) and V (Asset Recovery). The report was supported by the UNCAC Coalition and is intended as a contribution to the UNCAC peer review process of Nepal covering those two chapters. The full report is available on the UNCAC Coalition’s website.<sup>1</sup>

Overall, the UNCAC provisions on prevention and asset recovery are not fully complied with and implementation is weak. There is a lack of measures for legislative reform and implementation of prevalent laws, particularly in areas such as procurement, election integrity and whistleblower protection. The asset disclosure system is ineffective in practice. Although an attempt to counter money laundering through the government’s new ‘goAML system’ is underway, gaps persist in asset recovery where inter-agency coordination and cooperation resulted in little implementation and no effective monitoring oversight.

### Assessment of the Review Process

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| Has the government disclosed information about the country focal point?                | Yes | The government has designated the Joint-Secretary of the Office of the Prime Minister and Council of Ministers to be the UNCAC focal point. |
| Was the review schedule published somewhere?   | No  | –   |
| Was civil society consulted in the preparation of the self-assessment checklist?       | Yes | The government consulted a select number of CSOs representatives through informal consultations.  |
| Was the self-assessment checklist published online or made available to civil society? | No  | –   |

<sup>1</sup> The report was published on the UNCAC Coalition website in March 2023: <https://uncaccoalition.org/uncacparallereportnepal/>.

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| Did the government agree to a visit to the country?                    | Yes | –   |
| Was a country visit undertaken?  | Yes | The country visit took place in 2022.   |
| Was civil society invited to provide input to the official reviewers?  | N/A | Select civil society representatives were invited for a quick discussion that took place on 25-27 January 2022. |
| Was the private sector invited to provide input to official examiners? | N/A | Select private sector representatives were present.   |
| Has the government committed to publishing the full country report?    | No  | The government plans to post the executive summary online.  |

## Main Findings and Recommendations (R)

### Public Sector Employment

The Public Service Commission enjoys independence under the Civil Service Act and the Civil Service Rules. Although Nepal has implemented anti-corruption reforms within the civil service, it suffers from inefficiencies, political patronage, and nepotism.

*R: Raise ethical awareness and behavior of civil servants and provide them with adequate perks and trainings to boost motivation. Ensure an environment of functional independence in civil service positions, ending the practice of political connections and loyalties to obtain a position.*

### Political Financing

There is no specific law on political party financing, and political party finances and election integrity are questionable. The Election Commission mandates all political parties to disclose their financing, but most fail to comply. The integrity of disclosed information is questionable, with no verification mechanism. The Election Commission rarely intervenes when a political party does not disclose election-related expenses.

*R: Introduce a law on political financing following international best practice, and enhance the capacity of the Election Commission to monitor political party financing.*

### Codes of Conduct, Conflicts of Interest and Asset Declarations

Codes of conduct exist for employees in courts, government and attorneys, ministries, and judges, emphasizing high ethical standards. However, they are not strictly adhered to in practice, with few instances of follow-up in the event of breaches. There is no law regulating conflicts of interest. The executive, legislature and judiciary must all file asset disclosures; however, the asset disclosure system is ineffective in practice. There is no real monitoring or national database for asset declarations, and declarations are not publicly accessible.

**R:** *Formulate and implement a law on conflicts of interest, make asset declarations public and improve oversight.*

### **Whistleblower Protection**

There is no specific whistleblower or witness protection mechanism or policy, or an enabling environment for whistleblowing. Some legal provisions across various pieces of legislation provide for whistleblower confidentiality, immunity from prosecution, remedy and compensation in case of harm or loss suffered. However, in practice, there is no guarantee against retaliation for reporting corruption or misconduct.

**R:** *Introduce a stand-alone whistleblower protection law, ensuring there are channels for anonymous reporting and protection against retaliation.*

### **Public Procurement**

Nepal's Public Procurement Monitoring Office is a key oversight agency with functions related to public procurement, and there is an e-procurement platform. However, corruption is pervasive in public procurement. The Public Procurement Monitoring Office blacklists bidders or other persons, firms, organizations or companies from one to three years on the basis of the seriousness of their misconduct. Yet, blacklisting alone may not prevent collusion and impunity in public procurement.

**R:** *Allow the Public Procurement Monitoring Office to monitor the assets, income and spending habits of the procurement officers, as it is the sole monitoring agency for procurement purposes.*

### **Public Finances**

The Financial Procedure and Fiscal Accountability Act 2019 and Rules 2021 were created to make the fiscal management system transparent and accountable, aiming to maintain overall fiscal stability by providing a blueprint for the regulation and management of financial procedures at all levels of government. An independent constitutional body, the Office of the Auditor General, conducts the national audit, and the Public Audit Committee is mandated to examine irregularities in the Office of the Auditor General's annual report. The parliament Finance Committee also provides oversight of public funds; however, there is a tendency to bypass procedures per the convenience of the parties in power by issuing ordinances instead of obtaining approval in parliament.

**R:** *Strictly implement the findings of the Office of the Auditor General, the Public Audit Committee and other parliamentary committees and oversight agencies in letter and in spirit; end the practice of using ordinances to bypass the constitutional obligation to present the budget in parliament.*

### **Access to Information and Participation of Society**

There is low government accountability to citizens regarding providing information of national importance. Information is often delayed or withheld without explanation. In public matters, civil society organizations may be consulted for "matters of public concern" pursuant to laws dealing with good governance. The prevention of corruption has not been directly

defined as a matter of public concern, but the participation of civil society organizations may be sought for that purpose.

*R: Involve civil society organizations, the private sector and media in combating corruption, interacting with them in the UNCAC review process by inviting them to meaningful consultations.*

### **Judicial and Constitutional Council**

The Judicial Council takes actions against judges on the grounds of incompetence, misconduct, or serious violation of the code of conduct. Likewise, the Constitutional Council oversees the Commission for the Investigation of Abuse of Authority. The chief commissioner or commissioner can be removed from post by the President upon recommendation of the Constitutional Council on the grounds of inability to hold office and discharge the functions due to physical or mental illness. Despite serious corruption allegations,<sup>2</sup> impeachment or removal has rarely occurred.

*R: Require judicial integrity to be respected and ensure the appointment of the Attorney General is strictly based on merit.*

### **Private Sector transparency**

The 2008 Good Governance Act prohibits ex-civil servants from assuming management roles in the private sector. However, the private sector code of conduct has been ineffective in ridding potential undue nexus with law enforcement agencies. There is no transparency in company beneficial ownership.

*R: Enact laws promoting cooperation between the private sector and law enforcement agencies to ensure private sector transparency.*

### **Anti-Money Laundering**

The government recognizes the anti-money laundering and countering the financing of terrorism (AML/CFT) system as a strategic tool, and intends to make its electronic monitoring system 'goAML' fully operational. The existing AML/CFT legislative frameworks provide relatively comprehensive provisions and the Financial Intelligence Unit has assisted other agencies in developing their AML/CFT instruments and has provided resource persons for AML/CFT training and capacity building programs, as well as preparing policies and guidelines.

*R: Investigate all financial irregularities reported – the Department of Money Laundering Investigation and other agencies must be more proactive. Strengthen Law Enforcement Agencies' intelligence capacity. Create a register of timely and verified beneficial ownership information that is publicly available.*

### **Asset Recovery**

Nepal is a member of the Asia-Pacific Group on Money Laundering, Egmont Group of Financial Intelligence Units, Asset Recovery Interagency Network-Asia Pacific (ARIN-AP), and INTERPOL. However, there is a gap in inter-agency coordination and cooperation at policy and

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<sup>2</sup> <https://english.onlinekhabar.com/explainer-what-is-raj-narayan-pathak-bribery-case-all-about.html>.

operational levels. There is no system for verifying owners of reporting entities, or legislation regulating designated non-financial businesses and professions. The 2008 Assets (Money) Laundering Prevention Act provides the Department of Money Laundering Investigation the power to give orders for freezing assets during an investigation. Fines are imposed in case of non-compliance. Domestic bank accounts can be withheld and requests for freezing foreign bank accounts can be made through diplomatic channels. Despite reports of corruption, the government has not initiated investigations or actions to stop illegal investments.

**R:** *Improve inter-agency coordination for asset recovery nationally and globally; seriously investigate corruption allegations.*