

By Hari Bahadur Thapa

In 2001, Nepal's Prime Minister Girija Prasad Koirala resigned during his fourth term in office when widespread protests erupted over his administration's alleged involvement in a corruption scandal. The scheme involved financial irregularities concerning the lease of a jet for the state-run Nepal Airlines Corporation. Ironically, on Aug. 2, 2007, the Special Court acquitted all of the top officials charged in the case.

The Commission for the Investigation of Abuse of Authority (CIAA), the lone crusader in the battle against corruption in Nepal, waged a six-year court battle but lost the case. The accused officials, including a former minister and top managers of the airline, had been charged with taking as much as 389.7 million rupees (US\$5.8 million) in the airline deal. In the end they were all given a clean slate by the court and walked away free.

This situation is hardly unique. Nepali top-level politicians and officials are rarely charged with corruption, and, even if they are, they usually are quickly cleared of the charges. This high-level impunity has led to a popular immunity toward corruption in all forms — grand and petty.

During the past year alone, the Special Court acquitted four former ministers accused of corruption while in office. The ministers — Khum Bhadur Khadka, Govinda Raj Joshi, Jaya Prakash Gupta and Rabindra Nath Sharma — were all found to have amassed significant wealth that exceeded their known sources of income. According to Nepalese law, public officials must be able to account for their wealth within their disclosed income. If they are unable to do so, they can be charged with corruption and tried in court.

Khadka had access to 23 million rupees (US\$343,000), Joshi to 39 million rupees (US\$582,000), Gupta to 28 million rupees (US\$417,910), and Sharma to 49.5 million rupees (US\$739,000) — all greatly exceeding their known income sources. The officials held powerful positions in the government, including posts in the ministries of Finance, Home and Communications, all of which have billions of rupees to spend and many opportunities for graft.

In November 2006, however, the court cleared Khadka and Joshi of all charges, despite the fact that they were widely considered guilty by the public. Similarly, Gupta and Sharma were acquitted in June 2007. Three of the ministers are still members of Parliament.

In addition, Minister Birendra Kumar Kanaudia — well-known bank defaulter — retains his seat in Parliament. Kanaudia took out a huge loan of 1.38 billion rupees (US\$20 million) to finance his Mahalaxmi Sugar Mills and never bothered to pay it back. Kanaudia has not faced any charges in court. Another former minister, Chiranjivi Wagle, was found guilty of having wealth that exceeded his income, 27 million rupees (US\$402,000) to be exact, but he appealed to the Supreme Court and still remains a member of Parliament.

In fact, of the 18 corruption cases brought against top-level officials during the past year, the CIAA has lost all of them. Officials at the national Attorney General's Office, which handles all cases by the government, said they are disappointed by the court's decisions. Government attorney Yubaraj Subedi said the decisions are controversial and have damaged the court's image.

Former chief commissioner at the CIAA, who filed the cases, agreed. Surya Nath Upadhaya, who headed the CIAA until October 2006, said the courts are failing to decide the cases on merit, but rather focusing on their technical aspects, which is beneficial to the accused and makes it is easy for the rich and powerful to get away with their crimes. He said the real problem reaches beyond inadequate laws or decisions by the court, but extends to the tainted politicians who draft the laws and are charged with enforcing them.

It is shameful on the part of politicians to have such people as loan defaulters and known corrupt officials as appointed members of Parliament, Upadhaya said. This has damaged people's faith in the democratic system and in political parties.

As in many developing countries, powerful business leaders in Nepal enjoy close relationships with politicians and government officials. They use their influence and money to control politicians and escape prosecution for their alleged crimes. Not even the highest-level politicians, including the prime minister and opposition leaders, are spared from this influence.

For example, the powerful banker Sitaram Prasai was recently charged with swindling 280 million rupees (US\$4 million) from a bank he chaired. The central bank ordered the police to arrest him on Sept. 11, 2006, but he was not taken into custody. In fact, top political leaders and police officials attended a party Prasai hosted earlier this year. After a story about the party appeared in the press and angered the public, a group of political activists finally

captured Prasai on June 5, 2007, and handed him over to the police.

Following the incident, the leading Kantipur newspaper wrote, “This shows that the state has close nexus with the criminals and also reveals the height of impunity.”

Similarly, in 2005, the Tax Department found Mathura Maskey, owner of a famous alcohol company, guilty of tax evasion and ordered police to arrest him. Maskey’s home is only 200 feet away from police headquarters, and he is facing charges that he owes the government about 872 million rupees (US\$13 million) in due taxes — yet he has still not been arrested. Maskey also gave a sports utility vehicle to Madav Kumar Nepal, the general secretary of the Communist Party of Nepal (United Marxists Leninist), the country’s second largest party.

The case is especially frustrating for tax officials who would like to see people brought to justice. Uttam Bhatta, who has been tracking the case, said he is surprised and amazed that Maskey is still at large, despite repeated requests for his arrest.

Although high-level politicians and powerful business leaders appear to enjoy impunity, less powerful individuals are not so lucky. Petty corruption cases are often decided in favor of the CIAA. For example, a low-level worker at the government Land Reforms Office in a southern Nepal town was recently fired and lost his pension because he took a bribe of 500 rupees (US\$7).

The offices that deal most directly with the citizens, such as the offices of land revenue, tax and customs, as well as the police, courts and utilities, have the highest rate of corruption in the country. However, the crimes committed in these offices are relatively petty, such as taking a small bribe to get some official work done.

The public seems to be more concerned about the rampant corruption at the higher levels of government than about small-scale bribery. In fact, when the low-level staffer was fired for taking the 500 rupees (US\$7) bribe, the local people were sympathetic toward him. Instead of applauding the administration, they thought he was a victim. This may follow the thinking that if the big players are getting away with corruption, then those guilty of petty crimes should not be the only targets of the anti-corruption drive.

Prakash Wasti, a Supreme Court advocate specializing in anti-corruption cases, said this is a dangerous syndrome,

which is making corruption socially acceptable in the country. The populous is becoming more and more immune toward corruption because of the trend of the most powerful corrupt people going unpunished.