



NEPAL'S CONSTITUENT ASSEMBLY ELECTIONS: A LESSON FOR THE CONVICTED POLITICIANS?

1. Executive summary and recommendations

As Nepal prepares to hold the Constituent Assembly (CA) elections on 19th November 2013, there already seems to be one positive lesson: those “convicted of a criminal offence involving moral turpitude” have been barred from contesting the elections. Law has finally caught up though accountability for the violations committed during the conflict remains elusive.

The Supreme Court of Nepal in a judgement on 26th September 2013 disqualified anybody with a criminal conviction from contesting the CA elections. The decision annulled a prior ruling that had permitted people with criminal convictions to stand for election, staying clause 19(e) of the Ordinance on Election of Members of the Constituent Assembly, 2013 (hereinafter referred to as the Election Ordinance, 2013). The judgment was the result of a Public

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Interest Litigation filed challenging the constitutional validity of Clause 19(e) of the Election Ordinance, 2013.

The judgement of the Supreme Court left no alternative for the major political parties such as the Unified Communist Party of Nepal (UCPN), the Nepali Congress (NC), Communist Party of Nepal (Unified Marxist Leninist) (CPN-UML) and the Mahdesi political parties but to deny tickets to the convicted political leaders.

Among those who have been denied tickets by their political parties, UCPN leader Mr Bal Krishna Dhungel is perhaps the most high profile leader. He remains at liberty despite having been convicted for murder of Mr Ujjan Shrestha alias Bhuwan, of Pokali Village Development Committee-2 under Okhaldhunga district on 24 June 1998. However, the fact that Mr Dhungel cannot contest elections sends a strong message.

Other political leaders who have been convicted for corruption include former Nepali Congress Ministers Mr Chiranjivi Wagle, Mr Khum Bahadur Khadka and Mr Govinda Raj Joshi; CPN-UML former Constituent Assembly member Mr Dol Bahadur Karki; and Madhesi Minister Mr J P Gupta. All these leaders have been denied election tickets.

However, a number of leaders who are facing serious charges of human rights violations are still contesting the CA elections.

The UCPN has given tickets to many serious human rights violators. Mr Agni Sapkota, accused of

killing Mr Arjun Lama in 2004 is contesting from Sindhupalchok-2 constituency while his co-accused Mr Surya Man Dong is contesting from Karve constituency.¹ Further, Mr Keshav Rai, charged with murdering Mr Guru Prasad Luitel is contesting from Okhaldhunga-1 constituency and Mr Prabhu Shah, an accused in the murder of Hindu activist Mr Kashiram Tiwari, is contesting from Rautahat-3 constituency.²

The CPN-UML has given ticket to Mr Ram Dayal Mandal to contest from Mahottari District. Mr Mandal was convicted to 26 months imprisonment for assault and was earlier recommended for amnesty by then Prime Minister Dr Baburam Bhattarai.³

Madhesi political parties are not too far behind. Madhesi Janadhikar Forum-Nepal has fielded Mr Babban Singh, who faces murder charges⁴ while gangster Mr Ganesh Lama, who has been released from prison on bail, has filed his nomination from Kavre-2 constituency under the Bijaya Kumar Gachhadar-led Madhesi Janaadhikar Forum-Democratic.⁵

The Nepali Congress fielded Mr Rajesh Kaji Gurung and Mr Yam Bahadur Pariyar who are facing charges of irregularities.⁶

The implementation of the Supreme Court order by the political parties and denial of tickets to the convicted ones has removed some of the worst offenders from contesting the CA elections. This should act as a deterrent. As of May 2013, around 300 corruption cases filed by the Commission for Investigation of Abuse of Authority (CIAA) were pending before the Supreme Court⁷ and many of these are against the political leaders.

1. SC orders against govt decision on Arjun Lama murder, 26 November 2012, http://myrepublica.com/portal/index.php/twb/news_rss.php?action=news_details&news_id=45494
2. Parties flayed for fielding murder-accused, corrupt lot, The Himalayan Times, 4 October 2013, available at <http://www.thehimalayantimes.com/fullNews.php?headline=Parties+flayed+for+fielding+murder-accused%26sbquo%3B+corrupt+lot&NewsID=393032>
3. Govt mulling amnesty to murder convicts
<http://www.thehimalayantimes.com/fullNews.php?headline=Govt+mulling+amnesty+to+murder+convicts+&NewsID=303063>, Proposal seeks pardon to Maoist lawmaker Dhungel Added At: 2011-09-16 11:47 PM Last Updated At: 2011-09-16 11:47 PM
4. Parties flayed for fielding murder-accused, corrupt lot, The Himalayan Times, 4 October 2013, available at <http://www.thehimalayantimes.com/fullNews.php?headline=Parties+flayed+for+fielding+murder-accused%26sbquo%3B+corrupt+lot&NewsID=393032>
5. From jail, don Lama files nomination for FPTP seat, The Himalayan Times, 3 October 2013, available at <http://www.thehimalayantimes.com/fullNews.php?headline=From+jail%26sbquo%3B+don+Lama+files+nomination+for+FPTP+seat&NewsID=392848>
6. Parties flayed for fielding murder-accused, corrupt lot, The Himalayan Times, 4 October 2013, available at <http://www.thehimalayantimes.com/fullNews.php?headline=Parties+flayed+for+fielding+murder-accused%26sbquo%3B+corrupt+lot&NewsID=393032>
7. Around 300 corruption cases pending at Supreme Court, Karobar daily, 26 May 2013 available at <http://www.karobardaily.com/news/2013/05/Around-300>

The Election Commission of Nepal has the primary responsibility to disqualify candidates with criminal records.

Asian Centre for Human Rights recommends to the Election Commission of Nepal to rigorously scrutinise the candidates to ensure that those who have been convicted of minor offences do not contest the CA elections.

2. Constitutional basis to exclude the human rights violators and criminals from contesting elections

Article 65 provides a broad framework to disqualify those “convicted of a criminal offence involving moral turpitude”. Clause 19 of the Election Ordinance, 2013 specified the list of convicts to be disqualified.⁸

Article 65 provides for disqualification of members of the CA if convicted in “a criminal offense involving moral turpitude”. “Moral turpitude” is a term that is applied to an offense or an act that is not only illegal but also shows a person’s baseness and depravity. It essentially captures “the violation of decent, moral and honest behaviour and an act of depravity or vileness”.

Clause 19 of the Election Ordinance, 2013 on Election of Members to Constituent Assembly only expounds those convicted with “moral turpitude” as provided under Article 65 to disqualify “(c) A person who has not completed two years after serving sentence upon being sentenced pursuant to the prevailing laws relating to election; (d) A person who has been sentenced by a court of law on charges like corruption, rape, trafficking in persons, selling or dealing in contraband drugs, money laundering and misuse of passports; (e) A person who has been sentenced by a court of law for life imprisonment or life imprisonment with confiscation of property; and (f) A person who has been enlisted in the blacklist pursuant to the prevailing laws upon deliberately defaulting loan of a

A number of leaders who are facing serious charges of human rights violations are still contesting elections. The UCPN has maximum numbers of such candidates including Mr Agni Sapkota, Mr Surya Man Dong, Mr Keshav Rai and Mr Prabhu Shah. The CPN-UML, Nepali Congress and Madhesi political parties are not too far behind. They too fielded a number of candidates facing serious charges.

bank and financial institution”.

Indeed, Clause 19 of the Election Ordinance, 2013 restricts the definition of moral turpitude. In a number of countries, moral turpitude includes far wider crimes, and not only the serious crimes.

The U.S. State Department guidelines for consideration of visa application are instructive about ‘moral turpitude’. Under the US law, the most common elements involving moral turpitude are: (1) fraud; (2) larceny; and (3) intent to harm persons or things.⁹

For the purposes of visa, the US State Department categorises “some of the more common crimes, which are considered to involve moral turpitude”. With respect to crimes committed against property, most crimes committed against property that involve moral turpitude include the element of fraud generally involving “(1) making false representation; (2) knowledge of such false representation by the perpetrator; (3) reliance on the false representation by the person defrauded; (4) an intent to defraud; and (5) the actual act of committing fraud.”¹⁰

Other crimes committed against property involving moral turpitude involve an inherently evil intent, such as the act of (1) arson; (2) blackmail; (3) burglary; (4) embezzlement; (5) extortion; (6) false pretenses; (7) forgery; (8) fraud; (9) larceny (grand or petty); (10) malicious destruction of property; (11) receiving stolen goods (with guilty knowledge); (12)

8. Those who are disqualified are “(c) A person who has not completed two years after serving sentence upon being sentenced pursuant to the prevailing laws relating to election; (d) A person who has been sentenced by a court of law on charges like corruption, rape, trafficking in persons, selling or dealing in contraband drugs, money laundering and misuse of passports; (e) A person who has been sentenced by a court of law for life imprisonment or life imprisonment with confiscation of property; and (f) A person who has been enlisted in the blacklist pursuant to the prevailing laws upon deliberately defaulting loan of a bank and financial institution.

9. “U.S. Department of State Foreign Affairs Manual Volume 9 Visas” available at <http://www.state.gov/documents/organization/86942.pdf>

10. Ibid

robbery; (13) theft (when it involves the intention of permanent taking); and (14) transporting stolen property (with guilty knowledge).¹¹

The list of crimes involving moral turpitude in most countries is exhaustive. However, it is clear that had the Election Ordinance, 2013 included many of the elements of crimes involving moral turpitude as provided in many national laws including the United States, many of the Maoists leaders who had forcibly grabbed land, would not be eligible to contest the CA elections.

3. Convicted political leaders barred from contesting CA elections

Political leaders from all mainstream political parties such as Nepali Congress, UCPN, CPN-UML have been convicted of murder and corruption. Many of them were campaigning to contest the forthcoming CA elections. However, following the Supreme Court order the convicted political leaders have been barred from contesting CA elections.

3.1. Illustrative cases of convicted political leaders who were barred from contesting elections

Case 1: Convict Balkrishna Dhungel of UPCN

On 10 May 2004, the Okhaldhunga District Court sentenced Unified UCPN leader Mr Balkrishna Dhungel for life imprisonment with seizure of his property after conviction for the murder of Mr Ujjan Shrestha of Pokali Village Development Committee -2 under Okhaldhunga district on 24 June 1998.

Mr Ujjan Shrestha was seen walking through Khahare Dobhar, at Tarkerabari Ward No. 7, Okhaldhunga, when seven people, namely Mr Balkrishna Dhungel,

Mr Pushkar Gautam, Mr Thal Bahadur Poudel, Mr Dor Bahadur Poudel, Mr Ram Bahadur Shrestha, Mr Thir Bahadur Khatri and Mr Parbat Raj Bhattarai stopped and encircled him. They took him to a watercourse nearby. Mr Balkrishna Dhungel who was in charge of the district reportedly shot Shrestha dead and dragged his corpse to the Likhu River and threw it in with the help of Mr Pushkar Gautam.¹²

One of the brothers of Mr Ujjan Shrestha, Mr Ganesh Kumar Shrestha filed a First Information Report (FIR) on 30 June 1998 accusing Mr Dhungel and others of their involvement in the murder. Mr Ganesh Shrestha was killed on 22 November 2002 in front of his daughter allegedly in retaliation for filing the FIR.¹³ After inquiry, the public prosecutor filed a chargesheet.¹⁴

On 10 May 2004, the Okhaldhunga District Court convicted Mr Bal Krishna Dhungel and awarded him life sentence with seizure of his property. Mr Ram Bahadur Shrestha and Mr Thir Bahadur Khatri were sentenced to three years of imprisonment for aiding and abetting the murder.¹⁵

Mr Dhungel appealed against the District Court order. On 25 June 2006, the Appellate Court at Rajbiraj quashed the District Court verdict. He was therefore released from jail after seven years, six months and eight days of imprisonment.¹⁶

The government moved the Supreme Court against the verdict of the Appellate Court. The Supreme Court in its decision on 3 January 2010 set aside the Appellate Court judgement and upheld the murder conviction.¹⁷

By the time Supreme Court delivered its judgement on 3 January 2010, Mr Bal Krishna Dhungel had been elected a UCPN member of the Constituent

11. Ibid

12. Nepal Human Rights Yearbook 1999, Nepali Edition pg. 218 and NEPAL: Support to protests against impunity: the murderers of Ujjan Kumar Shrestha must be brought to book, ASIAN HUMAN RIGHTS COMMISSION, 13 January 2013 available at <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-005-2013>

13. Inputs from Informal Sector Service Nepal

14. NEPAL: Support to protests against impunity: the murderers of Ujjan Kumar Shrestha must be brought to book, ASIAN HUMAN RIGHTS COMMISSION, 13 January 2013 available at <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-005-2013>

15. Ibid

16. Ibid

17. Inputs from Informal Sector Service Nepal

Assembly. Despite the conviction for murder no action was taken against Mr Dhungel.

On June 14, 2011, a writ petition was filed before the Supreme Court demanding the implementation of the Supreme Court's earlier verdict to incarcerate Dhungel. On 26 June 2011, the Supreme Court (Chief Justice Khilraj Regmi and Justice Kamal Nnarayan Das) reiterated that there was no reason not to implement the sentence.¹⁸

The UCPN claimed that the judgement of the Supreme Court should be annulled as per the spirit of the point 5.4.2 of the Comprehensive Peace Accord in which the government agreed to withdraw the court cases of political nature. Mr Dhungel maintains that Ujjan Shrestha was murdered as he was a spy who connived against the Maoist Party.¹⁹

In November 2011, the government of Nepal headed by Dr Baburam Bhattarai of the UCPN-M recommended to President Ram Baran Yadav to grant amnesty to Mr Dhungel. The process was stalled after the Supreme Court stayed the amnesty in November 2011.²⁰

Mr Balkrishna Dhungel remains a senior UCPN leader and the police have made no attempt to arrest and incarcerate him.²¹

Case 2: Convict Chiranjivi Wagle, former Minister and Nepali Congress leader

On 16 March 2011, the Supreme Court sentenced Mr Chiranjivi Wagle, former Minister and Nepali Congress leader to 18 months of imprisonment and fined Rs. 20.3 million for amassing wealth

Among those who have been denied tickets by their political parties, UCPN leader Bal Krishna Dhungel is perhaps the most high profile leader. He remains at liberty despite having been convicted for murder of Ujjan Shrestha alias Bluwana on 24 June 1998. However, the fact that Dhungel cannot contest elections sends a strong message to all the murderers despite a number of leaders facing charges contesting the CA elections. Their days may be numbered.

through abuse of authority between 29 May 1991 and 4 October 2002 when he held seven ministerial offices.²²

Mr Wagle was convicted by the Special Court established under the Corruption Control Act, 2002 on 22 July 2004 pursuant to a case filed by the CIAA. Mr Wagle appealed before the Supreme Court, which upheld the Special Court ruling.²³ He was sent to Dillibazaar prison on 17 March 2011 and released on 29 April 2012 after serving the sentence.²⁴

Case 3: Convict Khum Bahadur Khadka, former Home Minister and Nepali Congress leader

On 14 August 2012, a division bench of Justices Kalyan Shrestha and Baidya Nath Upadhyay of the Supreme Court convicted former minister and Nepali Congress leader Mr Khum Bahadur Khadka of corruption. The Court sentenced him to 18 months of imprisonment and fined him Rs 9.47 million under

18. NO LEGAL OBSTACLE TO PUT MAOIST CA MEMBER BEHIND THE BAR: SC, 26 JUNE 2011 available at <http://www.advocacyforum.org/news/2011/07/no-legal-obstacle-to-put-maoist-ca-member-behind-the-bar.php>

19. Press Release: Prachanda should be asked to ensure violence free-elections and accountability for past abuses, Asian Centre for Human Rights, 29 April 2013 available at <http://www.achrweb.org/press/2013/IND15-2013.html>

20. Apex court issues stay orders on government's amnesty bid for Dhungel, 13 November 2011 available at http://www.nepal24hours.com/index.php?option=com_content&view=article&id=9800:apex-court-issues-stay-orders-on-governments-amnesty-bid-for-dhungel&catid=74:top-story

21. Murder convict Dhungel openly seeking votes, The Himalayan Times, 18 September 2013, available at: <http://www.thehimalayantimes.com/fullNews.php?headline=Murder+convict+Dhungel+openly+seeking+votes+&NewsID=391291>

22. Wagle arrested, sent to slammer, The Katmandu Post, 18 March 2011, available at: <http://www.ekantipur.com/the-kathmandu-post/2011/03/17/top-story/wagle-arrested-sent-to-slammer/219531.html>

23. Ibid

24. Convicted minister Wagle out of prison, ekantipur.com, 29 April 2012, available at: <http://www.ekantipur.com/2012/04/29/top-story/convicted-minister-wagle-out-of-prison/353174.html>

25. Former minister Khadka convicted of graft, ekantipur.com, 14 August 2012, available at: <http://www.kantipuronline.com/2012/08/15/top-story/former-minister-khadka-convicted-of-graft/358765.html>

the Corruption Control Act, 2002.²⁵

The CIAA filed a case against Mr Khadka in the Special Court on charges of accumulating Rs 23.6 million while he was holding Ministerial positions.

The Special Court acquitted Mr Khadka on 15 November 2006. The CIAA challenged the acquittal²⁶ and the Supreme Court over ruled the Special Court judgement finding Mr Khadka guilty.²⁷

Case 4: Convict Govinda Raj Joshi, former minister of Nepali Congress

On 25 July 2012, the Special Court convicted former Minister and Nepali Congress leader Mr Govinda Raj Joshi of corruption. It had sentenced him to 18 months imprisonment, fined Rs 21.6 million and confiscated property. The Special Court found Mr Joshi guilty of amassing illegal property when he held a range of Ministerial positions in the 1990s.²⁸

On 16 November 2006, Mr Joshi was acquitted by the Special Court on statutory limitation. The CIAA challenged the order of the Special Court before the Supreme Court which in January 2012 directed the Special Court to conduct re-trial.²⁹

Case 5: Convict Dol Bahadur Karki, CPN-UML former lawmaker

On 20 March 2011, the Special Court sentenced CPN-UML former lawmaker Mr Dol Bahadur Karki with six-month imprisonment and fined Rs. 100,000.

On 30 August 2010, Mr Karki was caught by police taking a Rs.100,000 bribe.³⁰ The Police arrested Mr Karki along with his aide Mr Shwami Udasin from his home in Bhimsengola. Mr Shwami Udasin was sentenced to four months imprisonment and fined Rs. 100,000.³¹

Case 6: Convict J P Gupta, sitting Minister for Information and Communications and Madhesi leader

On 21 February 2012, Mr J P Gupta, then Minister for Information and Communications, was sentenced to 18 months imprisonment by the Division Bench of the Supreme Court on corruption charges. The Court fined Gupta Rs 8.4 million.³²

Gupta was found guilty of accumulating assets worth Rs 24.03 million. The CIAA originally filed a case against him before the Special Court on 20 March 2003. The Special Court acquitted Mr Gupta on 7 June 2007, citing insufficient evidence. The CIAA then moved the Supreme Court.³³

While convicting Mr Gupta, the Supreme Court stated that the Special Court made a grave mistake and recommended the Judicial Council to take action against the Special Court judges Bhupadhowj Adhikari, Komal Nath Sharma and Cholendra Shumsher Janga Bahadur Rana.³⁴

On 18 March 2013, Mr Gupta was released from the Dillibazar prison after having served 13 months imprisonment with remission.³⁵

26. SC slaps NC leader Khadka 18 months jail sentence; Rs. 9.5 m penalty for corruption, Nepalnews.com, 14 August 2012, available at: <http://www.nepalnews.com/home/index.php/news/1/20732-sc-slaps-nc-leader-khadka-18-months-jail-sentence-rs-95-m-penalty-for-corruption.html>

27. Former minister Khadka convicted of graft, ekantipur.com, 14 August 2012, available at: <http://www.kantipuronline.com/2012/08/15/top-story/former-minister-khadka-convicted-of-graft/358765.html>

28. Ex-minister Joshi convicted on corruption charge, ekantipur.com, 25 July 2012, available at: <http://www.ekantipur.com/2012/07/25/top-story/ex-minister-joshi-convicted-on-corruption-charge/357731.html>

29. Ibid

30. Six-month jail, Rs 100,000 fine to lawmaker Karki, The Rising Nepal, 20 March 2011, available at: http://www.gorkhapatra.org.np/gopa.detail.php?article_id=47607&cat_id=4

31. Ibid

32. Ex-minister JP Gupta out of jail after 13 months for graft, The Himalayan Times, 18 March 2013, available at: <http://www.thehimalayantimes.com/fullNews.php?headline=Ex-minister+JP+Gupta+out+of+jail+after+13+months+for+graft&NewsID=369807>

33. Minister Gupta convicted for graft, The Himalayan Times, 21 February 2012, available at: <http://thehimalayantimes.com/fullNews.php?headline=Minister+Gupta+convicted+for+graft&NewsID=321420>

34. Minister Gupta convicted of corruption, jailed for 18 months, ekantipur.com, 21 February 2012, available at: <http://www.ekantipur.com/2012/02/21/top-story/minister-gupta-convicted-of-corruption-jailed-for-18-months/349318.html>

35. Ex-minister JP Gupta out of jail after 13 months for graft, The Himalayan Times, 18 March 2013, available at: <http://www.thehimalayantimes.com/fullNews.php?headline=Ex-minister+JP+Gupta+out+of+jail+after+13+months+for+graft&NewsID=369807>

3.2 Illustrative cases of convicted senior government officials who may contest elections

In the previous elections, senior retired government officials have contested elections. A number of officials have recently been convicted of corruption charges and they have not been able to contest the CA elections.

Case 1: Convict Padam Prasad Pokhrel, former Home Secretary

On 4 October 2012, the Special Court sentenced former Home Secretary Mr Padam Prasad Pokhrel to 18 months imprisonment, fined Rs. 5.8 million and confiscated his property.³⁶ Mr Pokhrel was charged with amassing wealth disproportionate to his income. The charge sheet filed at the Special Court on 26 November 2003, sought confiscation of his property worth Rs 15 million. However, the Special Court quashed the charge sheet in June 2007 on the grounds of statutory limitation. The CIAA then moved the Supreme Court on 8 November 2007 which directed the Special Court to hold the trial again.³⁷

Case 2: Convict Chakra Bandhu Aryal, former Defense Secretary

On 22 November 2012, the Special Court sentenced former Defense Secretary Mr Chakra Bandhu Aryal to 18 months imprisonment on corruption charges and fined him Rs. 6.62 million. The Court found that Mr Aryal had acquired Rs. 6.62 million by illegal means.³⁸

Case 3: Convict Sabitri Rajbhandari, former Joint Secretary

On 27 November 2012, the Special Court sentenced former Joint Secretary Ms Sabitri Rajbhandari to a year imprisonment on corruption charges. The Special Court also fined her Rs. 24.6 million. The Special Court held that Ms Rajbhandari had acquired property valued at Rs 24.6 million by illegal means after the CIAA had filed a case against Ms Rajbhandari before the Special Court on 1 September 2005 after it found that she had amassed property from unknown and possibly illegal sources.³⁹ Earlier the Special Court dismissed the complaint against her on the grounds of statutory limitation. The CIAA moved the Supreme Court, challenging the acquittal. The Supreme Court subsequently asked the Special Court to review the case. It did so and this time convicted.⁴⁰

Case 4: Convicts Om Bikram Rana, Hem Bahadur Gurung and Ramesh Chand Thakuri, then IGP's of Nepal

In February 2012, the Special Court sentenced three former Inspector General of Police i.e. Mr Om Bikram Rana, Mr Hem Bahadur Gurung and Mr Ramesh Chand Thakuri to two-year jail term for their role in purchasing sub-standard Armoured Personnel Carriers for the peacekeeping mission of Nepal Police in Darfur, Sudan.⁴¹ The Special Court also fined Rana Rs 170 million, Gurung Rs 64 million and Thakuri Rs 48 million. On 7 June 2011, the CIAA filed a case against 34 incumbent and retired police officials and three suppliers — Michael Rider, Assured Risk Limited and Bharati — in the Rs 288-million scam.⁴²

36. Ex-Home Secy gets 18-month jail, The Himalayan Times, 4 October 2012, available at: <http://www.thehimalayantimes.com/fullNews.php?headline=Ex-Home+Secy+gets+18-month+jail&NewsID=349777>

37. SC orders rehearing of Pokharel case, The Kathmandu Post, 16 April 2012, available at: <http://www.ekantipur.com/the-kathmandu-post/2012/04/15/nation/sc-orders-rehearing-of-pokharel-case/233812.html>

38. Special Court convicts former defense secy Aryal of graft, Nepalnews.com, 22 November 2012, available at: <http://www.nepalnews.com/home/index.php/news/2/24055-special-court-convicts-former-defense-secy-aryal-of-graft.html>

39. Former joint secy Rajbhandari found guilty of graft, sentenced to one year in prison, Nepalnews.com, 28 November 2012, available at: <http://www.nepalnews.com/home/index.php/news/1/24197-former-joint-secy-rajbhandari-slapped-1-year-jail-sentence-for-corruption.html>

40. Sabitri Rajbhandari becomes first woman ex-bureaucrat to get jail term for corruption, The Himalayan Times, 27 November 2012, available at: <http://www.thehimalayantimes.com/fullNews.php?headline=Former+joint+secy+convicted+of+graft&NewsID=355796>

41. Three ex-IGPs convicted, get two-year sentence, The Himalayan Times, 14 February 2012, available at: <http://www.thehimalayantimes.com/fullToday.php?headline=Three+ex-IGPs+convicted%E2%80%9A+get+two-year+sentence&NewsID=320331>

42. Ibid

Annex I: Comparison of Section 65 of the Interim Constitution and Section 19 of the Ordinance on the election of members of the Constituent Assembly

Section 19 of the Ordinance for elections	Section 65 of the Interim Constitution
<p>Disqualification of a Candidate: (1) Notwithstanding anything contained anywhere else in this Act, the following persons shall be deemed disqualified to become a candidate in the election:</p> <p>(a) A person whose name is not enlisted in the Electoral Rolls,</p> <p>(b) An incumbent office-bearer of the Government of Nepal or any organization owned or controlled by, or receiving grants from the Government of Nepal subject to receiving remuneration,</p> <p>(c) A person who has not completed two years after serving sentence upon being sentenced pursuant to the prevailing laws relating to election,</p> <p>(d) A person who has been sentenced by a court of law on charges like corruption, rape, trafficking in persons, selling or dealing in contraband drugs, money laundering and misuse of passports</p> <p>(e) A person who has been sentenced by a court of law for life imprisonment or life imprisonment with confiscation of property</p> <p>(f) A person who has been enlisted in the blacklist pursuant to the prevailing laws upon deliberately defaulting loan of a bank and financial institution,</p> <p>(g) A person who has lost mental balance.</p>	<p>“In order for a person to become a member of the CA, such a person must possess the following qualifications:</p> <p>(a) be a citizen of Nepal;</p> <p>(b) have attained at least twenty-five years of age;</p> <p>(c) has not been convicted of a criminal offence involving moral turpitude;</p> <p>(d) is not disqualified by any law; and</p> <p>(e) does not hold any office of profit.”</p>

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