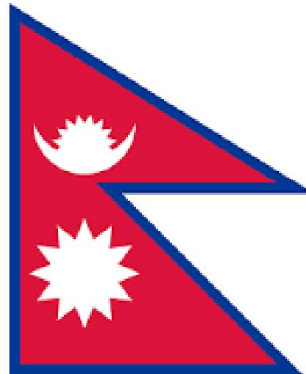


Consolidating Democracy in Nepal through Transparent Campaign Finance



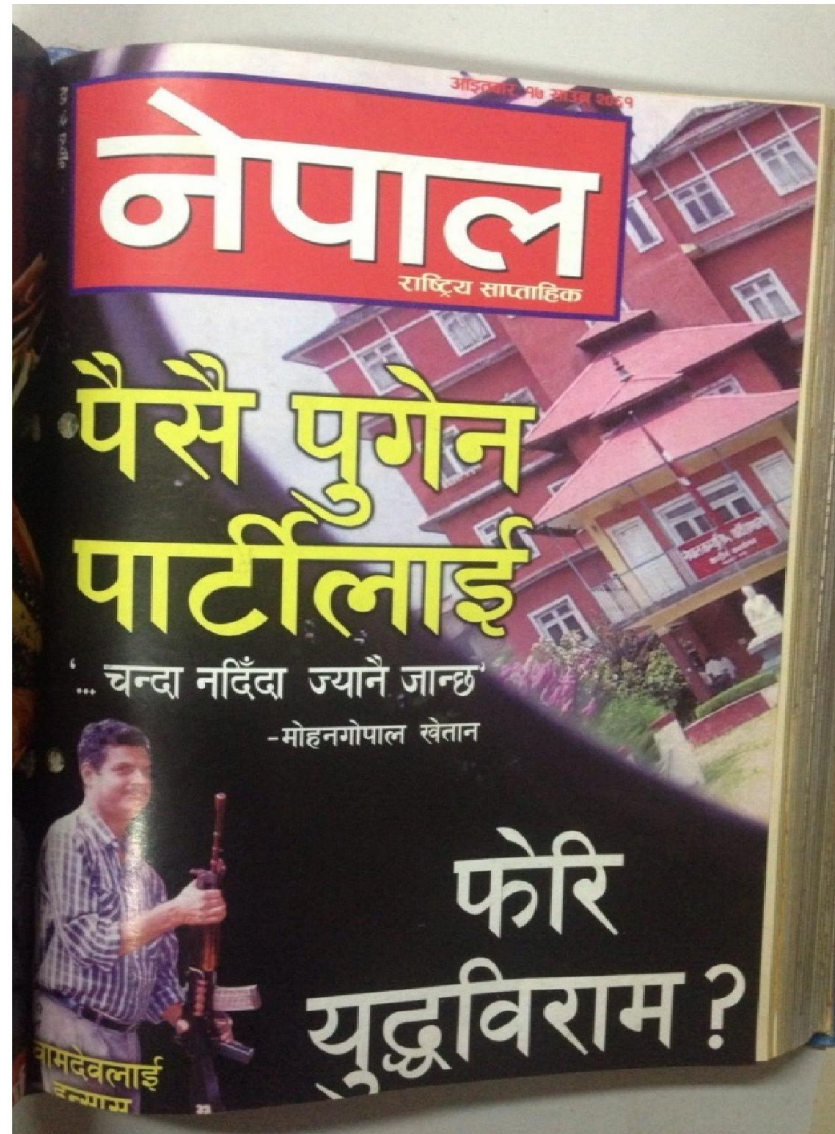
Tilak Pathak

**Reagan-Fascell Democracy Fellow
National Endowment for Democracy**

August 1, 2004 Nepal Magazine

Party
Financial
Crisis:

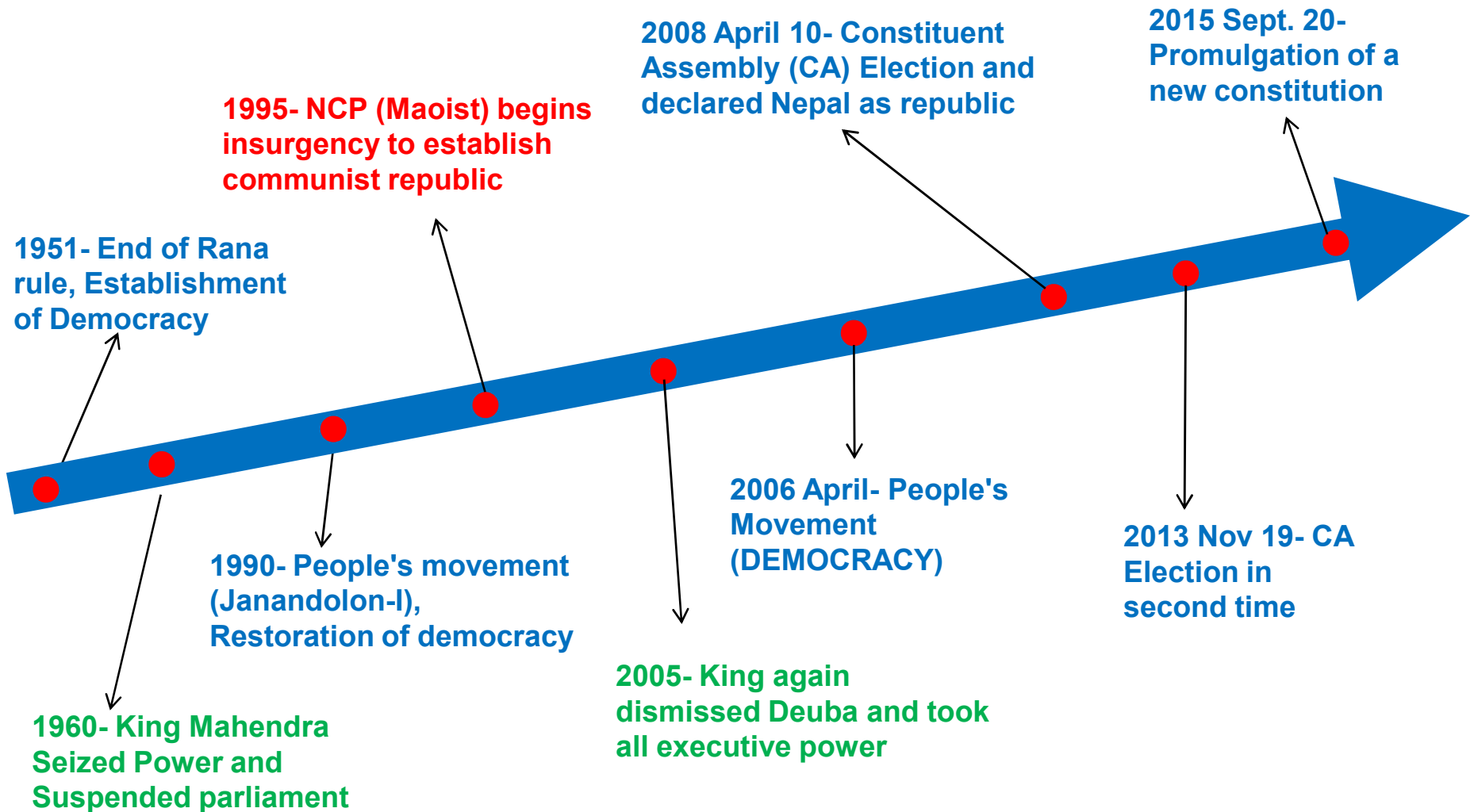
“Not
Enough
Money for
the
Parties”



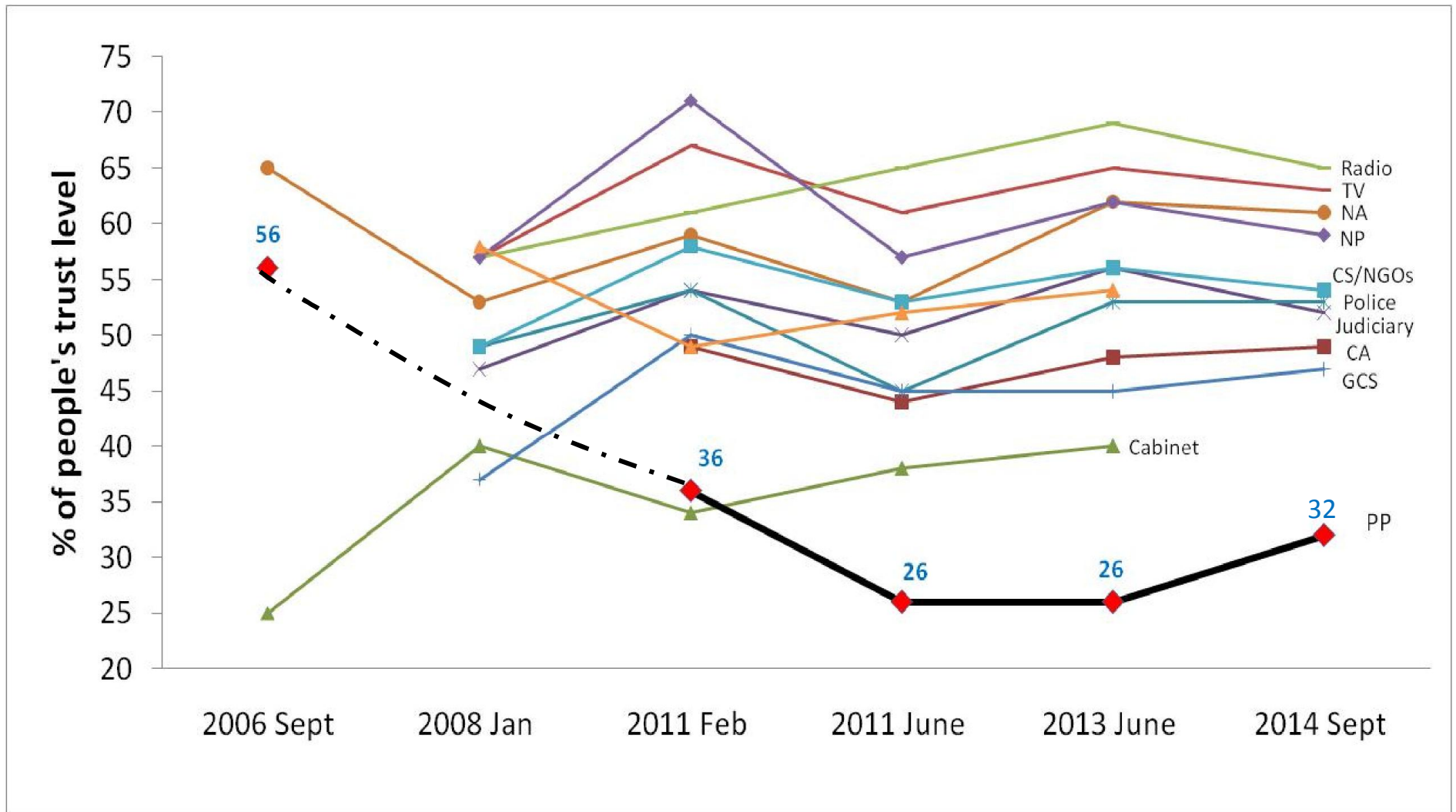
Overview

- I. History of Political Instability and Trust Deficit
- II. Campaign Finance Legal Framework
- III. Skyrocketing Election Costs and Undisclosed Campaign Contributions
- IV. Political Payback: Case Studies
- V. Recommendations

I. History of Political Instability

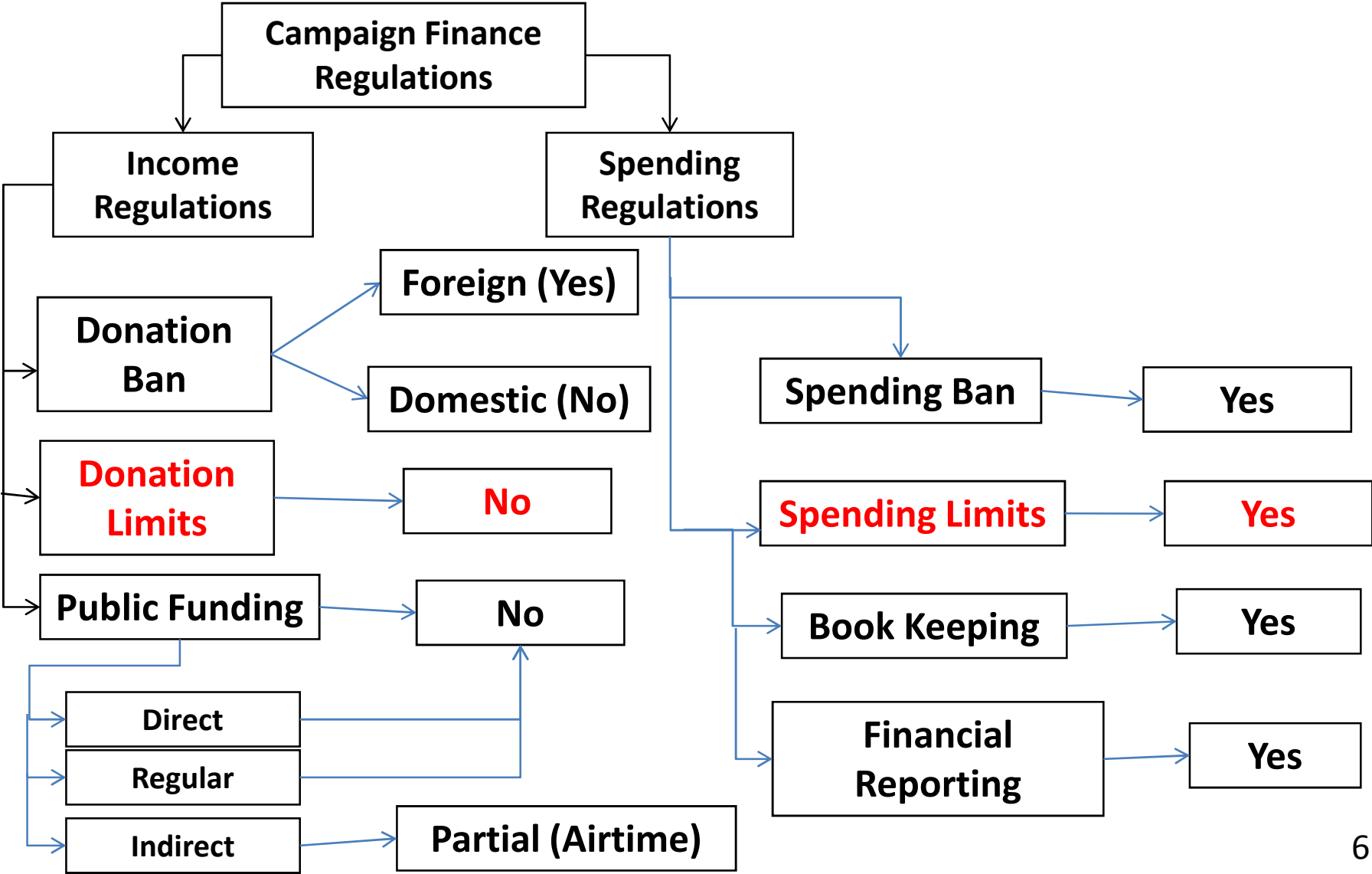


I. Trust Deficit Facing Political Parties



PP = Political Parties; GCS = Government Civil Service; CA = Constituent Assembly; CS = Civil Society; NGO = Non Government Organization; NP = News Paper; NA = Nepal Army; TV = Television

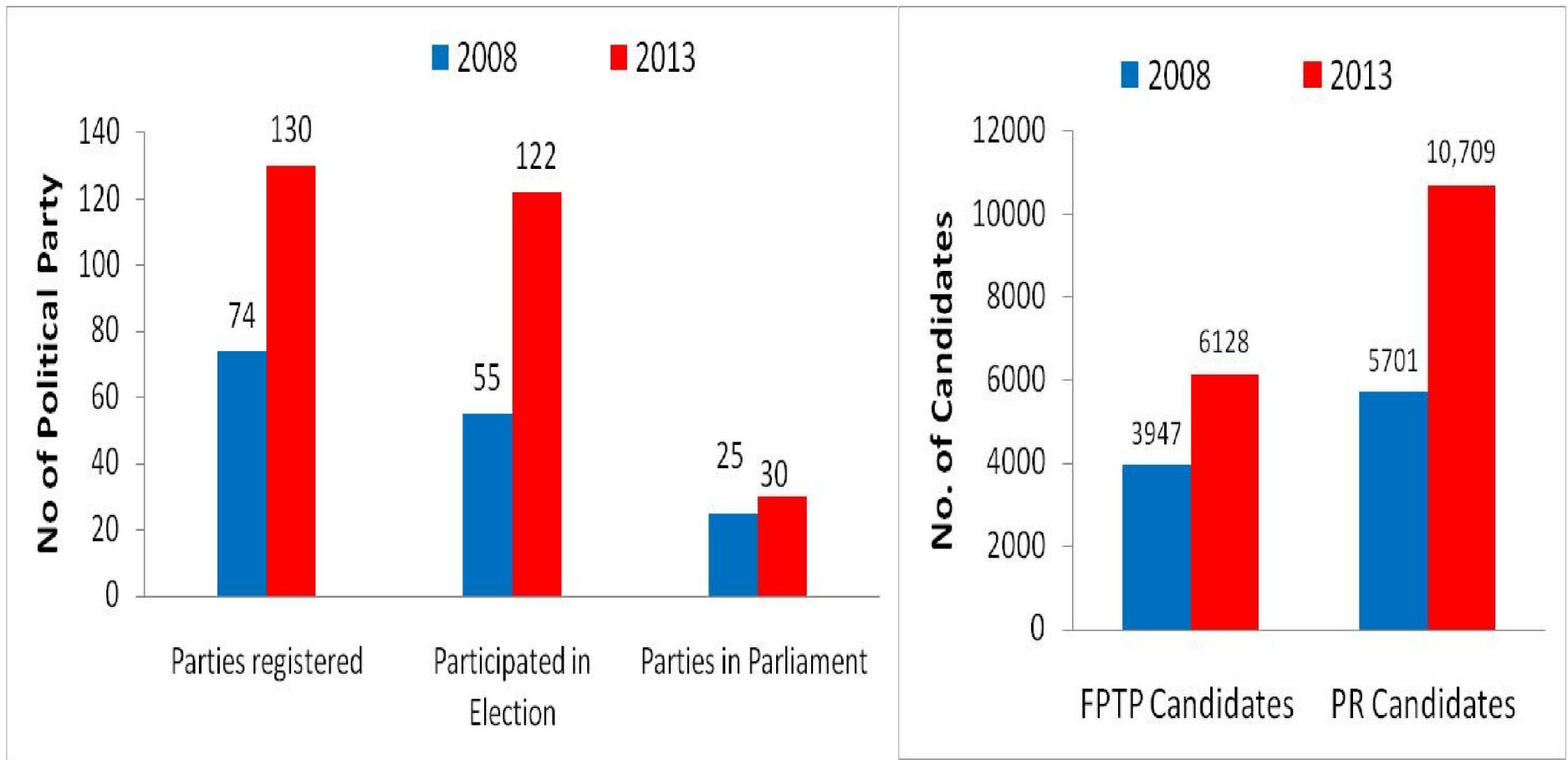
II. Campaign Finance Legal Framework



II. The Election Commission (EC)

- EC is weak and ineffective.
- Financial documentation submitted to EC is not credible.
- EC does not question these unreliable documents.

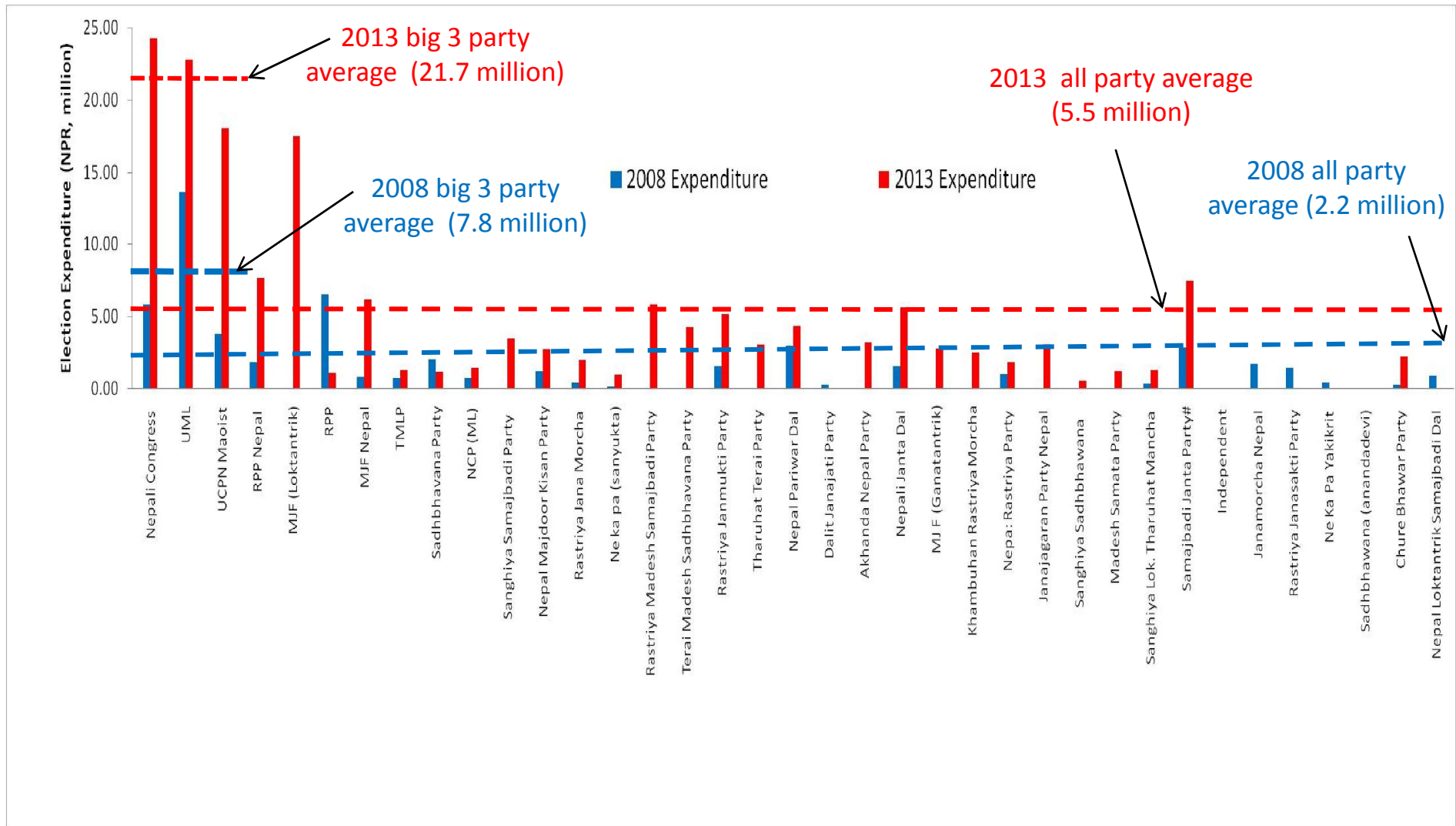
III. Skyrocketing Costs and Contributions: Parties and Candidates



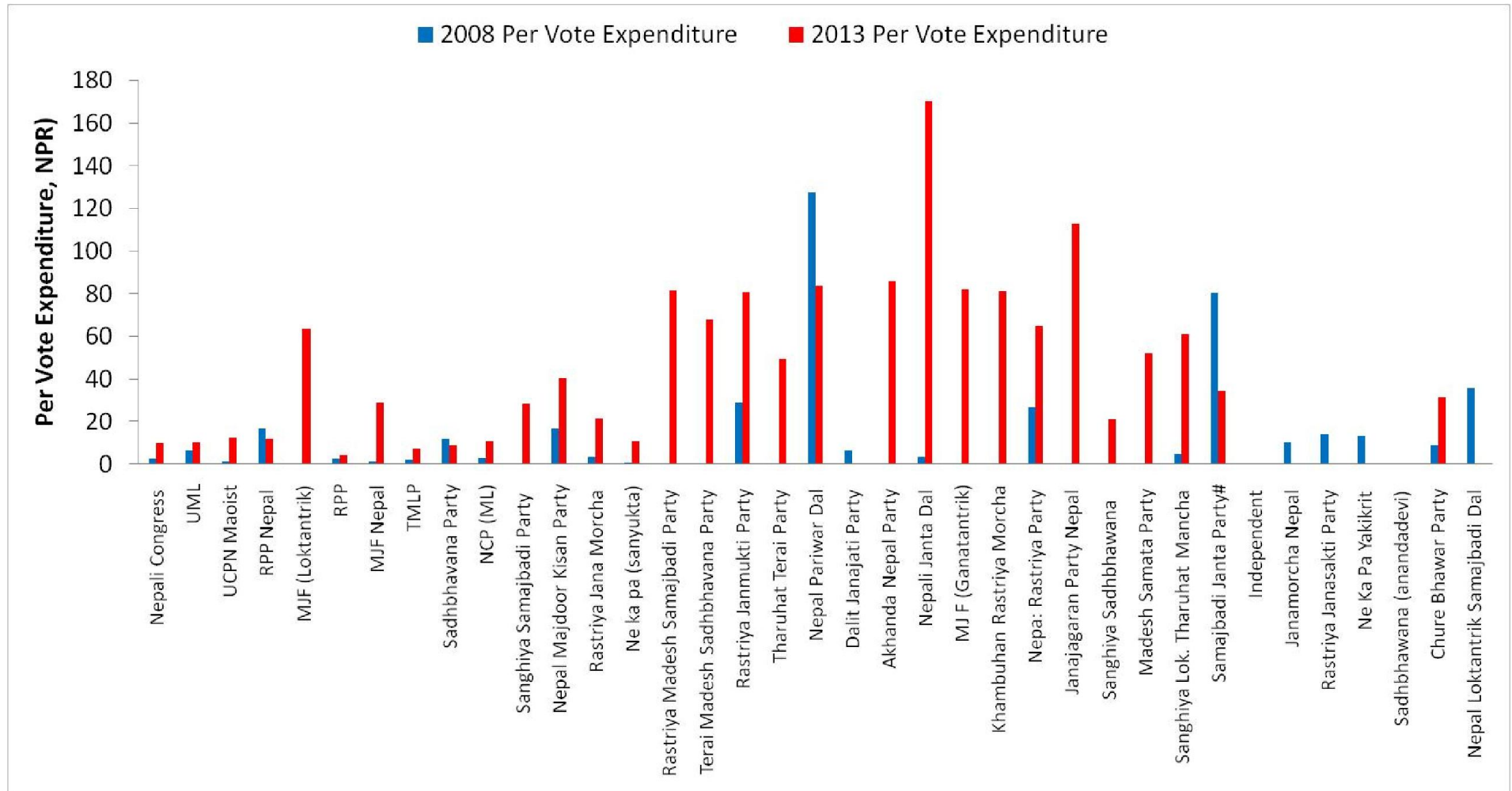
III. Total Votes vs. Expenditures

Year	2008	2013	% Increase/ decrease
Total votes cast (In million)	10.74	9.46	-11.92
Total expenditure of parties (NPR in million)	61.74	288	366.47
Expenditure per vote (NPR)	5.74	30.43	430.14
Expenditure of EC and security (NPR in million)	2730	11140	308.06

III. Election Expenditure of Parties



III. Trend of Increasing Per Vote Costs



III. Limits that Everyone Exceeds

- Regulations stipulate \$10,000 (FPTP) and \$1,000 (PR) spending limit.
- Pushpa Kamal Dahal spent \$32,000 on helicopters.
- Eaknath Dhakal spent \$55,000 on helicopter use alone.

Rs. 3.2 million (\$30,000)
on copter for votes

भोट माग्न
हेलिकप्टरमै ३२ लाख



हेलिकप्टरबाट सुधवार वीलखाको चरिकोट पुगेका दाहाल ।

सुशील भट्टराई
काठमाडौं, कार्तिक २४
एकीकृत माओवादी अध्यक्ष पुष्पकमल दाहालले निर्वाचन आचारसंहिताको घण्टी उडाउँदै हेलिकप्टर उडानमा मात्रै भन्दाै ३२ लाख रुपैयाँ खर्च गरेका छन् ।

हजार ८ सय ४० रूपैयाँ हेलिकप्टर चार्ज गर्दै नागरिकलाई प्रा जानकारीअनुसार खुन लागि भनेर माओवादी हालसम्म २९ घन्टा हे उडिसकेका छन् । यस हजार ५ सय डलर प्रा

Dahal uses copters sans EC permit
Koirala was denied copter in Lamjung

DAHAL VIOLATES
The Maoist party has stated that its senior leader and former Prime Minister Dahal has violated the election code of conduct by using a helicopter for election campaigning. The Election Commission (EC) has denied the party a helicopter for use in those areas where it is campaigning in the run-up to the polls, which refused

III. Candidate Costs

2013 : "Election Costs Increasing Three-Fold"
(Nagarik Daily)

चुनाव खर्च तीन गुना नाघ्दै

सुरेन्द्र पौडेल

काठमाडौं, कार्तिक २५

निर्वाचन आयोगको आचारसंहिताअनुसार एक उम्मेदवारले १० लाख रूपैयाँभन्दा बढी खर्च गर्न पाउँदैन। तर, अधिकांश क्षेत्रका उम्मेदवारसँग कुण्ठकानी गर्दा उनीहरू नै आफ्नो खर्च तोकिरहन्छन्।

यसमध्ये आयोगले तोकेको सीमा १० लाखको आधा एकजति पार्टीको आन्तरिक संयन्त्रबाट नुसल भने बाँकी खर्च आफैले जोड्ने गर्नुपर्ने उम्मेदवारहरू बताउँछन्। पार्टीले केन्द्रीय स्तरबाट उठाउनेबाहेक उम्मेदवारले पनि चन्दा उठाउने गरेको पाइन्छ। उनीहरूको खर्च यैसा उठाउनेमा उद्योगी व्यवसायी नै बढी छन्। आफन्त र विदेशीमा रहेका

प्रत्यक्ष रूपमा उठाउने खर्चको झोत के हो त ?

“हाम्रो चुनाव प्रचारमा खर्चको मुख्य झोत कार्यकर्ताबाट उठाइने लेवी र सदस्यता शुल्क नै हो,” एकीकृत माओवादीका प्रवक्ता अनिल साफकोटाले नागरिकसँग भने, “सुभाचिन्तकले गर्ने सल्लोभले पनि हामीलाई धूलै सहत मिलेको छ।” उनका अनुसार एघारौँबर्षदेखि आफ्ना २ सय ४० जना उम्मेदवारलाई



- पार्टी सदस्यबाट प्रतिव्यक्ति दुई सय रूपैयाँ
- कार्यकर्ताबाट लेवी
- पार्टीनिकट कर्मचारीबाट एक महिनाको २५% तलब
- पार्टी केन्द्रबाट हरेक उम्मेदवारलाई ५ लाख

उम्मेदवारको आयस्रोत



- पार्टी केन्द्रबाट हरेक उम्मेदवारलाई ५ लाख
- पार्टीका हुनेखानेबाट चन्दा
- आफ्नो क्षेत्रका



- हरेक संगठित सदस्यबाट सयदेखि हजार
- गाउँ तथा क्षेत्रीय कमिटी सदस्यबाट ५ सय
- जिल्ला सदस्य/केन्द्रीय पदाधिकारीबाट हजार
- आबद्ध व्यवसायीबाट

III. Where does the money come from?

- Corporations
- Business leaders



IV. Political Payback

- Business leaders appointed as members of parliament through the proportional system: At least 50 business leaders, contractors, bankers, school owners in current parliament came through proportional representation system.
- Contributors buy political office and lobby to control policy-making process (vicious circle)

IV. The Power of Contributors



Sep 2013
She denied giving donation to be MP

Dec 2013
UML appointed her MP

Oct 18, 2015
Standing committee instructed her to resign

Oct 31, 2015:
Party Spokesperson denied allegations

Jan 6, 2016 :
Local committee in her district formed panel for investigation.



Nov 2013
UML listed her as candidate

Oct 11, 2015
She was absent in PM election

Oct 24, 2015:
She admitted paying \$700,000 to party

Dec 21, 2015
Chairman and GS of Party honored her



IV. Case (2011): Tax Evasion and Impunity

437 firms named in fake VAT receipt scam

PRABHAKAR GHIMIRE
KATHMANDU, Oct 30

Responding to a landmark directive of National Information Commission (NIC), the government on Sunday made public the names of business firms, including major players in Nepali corporate world allegedly involved in tax evasion by using fake VAT receipts.

The investigation report on alleged tax evasion prepared by Inland Revenue Department (IRD), which was made public by Finance Secretary Krishna Hari Baskota, suspects involvement of Nepal's top corporate houses, including Arun Intercontinental, United Builders, Jagadamba Steel, Varun Developers, Biswokarma Cement, Maruti Cement, Dugar Auto Clinics, CG Electronics, Jagadamba Trading Concern, Chamelia Hydropower, CG Impex, United Distributors, Morang Auto Works, Bhat-Bhateni Department Store and CG Foods.

NIC issued the directive on the basis of an application registered by Tara Nath Dahal of Freedom Forum - an NGO advocating people's right to infor-

mation. Dahal had filed application at NIC as per the Right to Information Act on July 10 after the Ministry of Finance (MoF) refused to disclose the names of firms and the amount evaded. NIC had directed the MoF to disclose the details the following day.

NIC, however, directed the ministry not to disclose details of amount allegedly evaded by those firms. Freedom Forum appealed to the NIC again on Aug 15 after the MoF cold-shouldered the NIC directive. NIC issued another directive on Oct 15, directing the MoF to disclose names of the firms within 15 days.

Former finance minister Bharat Mohan Adhikari, citing Income Tax Act, had told parliamentary Public Accounts Committee (PAC) a few months ago that the government cannot disclose the names of the firms being investigated for revenue evasion.

The report also discloses details of the firms that are currently under investigation on alleged tax evasion amounting to more than Rs 10 billion. The report also named a number of firms that

See page 2: 437 firms...

IV. Case 2 (2016):

Tax increases for small business owners;
decreases for large businesses

Owners of large businesses pressure government to change “Local Self Government Regulations”

Recent Result:

- “Large” business tax decrease 4X
- “Small” business tax increase 3X

IV. Case 3 (2015-2016) : Tariff exemption for business

- Businesses lobbied government to receive 24-hour electricity during ongoing power cuts and agreed to pay double tariff
- Nepal Electricity Authority (NEA) cut public power in favor of business
- NEA revoked double-tariff on businesses in early 2016

IV. Case 4 (2016): Lobby from Banker MPs 'Banker' lawmakers blurring lines between corporate lobbying, lawmaking

SAGAR GHIMIRE

KATHMANDU, Jan 17

In what appears to be a clear breach of ethical conduct, members of the parliament, who also have direct involvement in bank and financial institutions (BFIs), have registered their amendment proposal in the bill to make amendments to the Bank and Financial Institution Act, 2006.

The government tabled the amendment bill in the parliament in the last week of November.

Four lawmakers are affiliated with BFIs either in the capacity of chairman, board director or promoter with controlling stake, while half a dozen lawmakers are businessmen or industrialists. While there are still no rules in place to govern conflict of interest of a parliamentarian, experts on corporate governance say that a leg-

islator should at least skip parliamentary proceedings that affect their corporate interests.

"It's unusual for a legislator to hold a position in a private bank. How can we expect that a legislator will not prioritize corporate or financial gains over public interest while making laws? They should choose either the parliament or a bank to avoid any possible conflict of interest," Tara Prasad Upadhyaya Gyawali, an expert on corporate governance who is also an associate professor at Lumbini Banijya Campus, said.

Civil Bank's Chairman Ichchha Raj Tamang, Prime Commercial Bank's Chairman Umesh Shrestha, Janata Bank's Chairman Uday Nepali Shrestha, Reliance Lotus Finance Ltd's Board Director Rajeev Bikram Shah and Mega Bank's Promoter Duman Thapa are also the

members of parliament.

Tamang and Shrestha have registered a dozen of amendment proposals on the draft bill of BAFIA. Among the amendment proposals, the two members, who are also the chairman of the bank, have proposed removing a clause in the bill that restricts a chairman of any BFI to remain at the post for more than two terms.

"There is no written code in the country that says what lawmaker should or should not do to avoid conflict of interest. Lawmakers having corporate interest or affiliated with a bank should remain neutral in the discussion or deliberation of matters that matters his/her bank," Parshuram Kunwar Chhetri, a former banker and financial consultant told Republica. "The lobby of such parliamentarians to bend the law to suit their interests looks strong as

Four lawmakers are affiliated with bank and financial institutions either in the capacity of chairman, board director or promoter with controlling stake, while half a dozen lawmakers are entrepreneurs or industrialists.

they have been able to convince legislators across all party lines. It's very unfortunate as well as unethical for a legislator, who is affiliated with bank, to actively lobby and influence the lawmaking process for corporate

gains."

The conflict of interest of some lawmakers was visible in the meeting of Finance Committee of the parliament in September last year when the panel grilled Nepal Rastra Bank (NRB) officials to discuss the central bank's decision to raise minimum paid-up capital of the BFIs through the Monetary Policy for Fiscal Year 2015/16. The lawmakers, who were also in the board of the banks, had demanded that the paid-up capital hike requirement be scrapped.

Many observers say the parliamentarians have posed a challenge for the regulator while ensuring financial discipline in the banking industry.

"I do not see a necessity for an honorable member of any constitutional body to be regulated by the central bank," said former deputy governor of NRB Maha

Prasad Adhikari, indicating the discomfort the central bank faces while regulating such bankers.

Chhetri agreed with Adhikari.

"Legislators are above the NRB Governor in hierarchy which may make central bank hesitant in case it needs to take action against the chairman or the board director of any bank while ensuring financial discipline," added Chhetri.

However, Prakash Jwala, chairman of the Finance Committee, termed the issue as an 'unnecessary exaggeration'. "Legislators can be from various backgrounds -- politics, business or any other sectors. Their expertise can be helpful in drafting any laws. Even if they have corporate interest during parliamentary deliberations, their interests cannot be dominant in the parliament," he added.

IV. Case 5 (2014-2016)

MPs to deliberate law on institute with their stakes

MANISH GAUTAM
KATHMANDU, JAN 23

Imagine a situation in which your local grocers had the power to draft laws about their business practices and the prices they could charge. The same is happening in Nepal's Parliament where lawmakers who have shares in the Manmohan Institute will deliberate on a bill which would upgrade the status of the institute into an academy.

Parliament sent the Manmohan Academy Bill to its respective committee on Thursday, where influential CPN-UML leaders, who have stakes in the proposed academy, are the members.

Experts worry that the presence of the parliamentarians in the discussion over the bill creates a conflict of interest while they may influence any amendment decision by the committee.

The government forwarded the Manmohan Bill to the Women, Children, Elderly Citizen and Social Welfare Committee chaired by UML lawmaker Ranju Kumari Jha



Parliament has sent Manmohan Academy Bill to its committee where influential CPN-UML leaders with stakes in the proposed academy are the members

for review. The committee has influential UML Members of Parliament including Rajendra Pandey, who chairs the Manmohan Institute of Health Sciences, and Dr Bansidhar Mishra, who has shares in the cooperative that runs the institute.

There are a total of 13 UML leaders in the House commit-

tee who have made controversial decision in the past to ensure that Manmohan Institute gets affiliation to run MBBS classes. On December 28, 2014, contrary to the government's decision to stop new affiliations to medical colleges, this committee directed the Ministry of Education to allow the medi-

cal colleges that had acquired the letter of intent to operate. The decision was protested by the UCPN (Maoist) saying that it was taken in their absence and revoked later.

Kedar Bhakta Mathema, chairman of the committee that drafted the Health Profession Education Policy, said it is an apparent conflict of interest where the shareholders of the institute decide on the fate of the institute.

"The same persons sitting to decide on their own medical college is a serious moral hazard on part of our parliamentarians," said Mathema. "They would obviously lobby to ensure that they get to run their institutes."

Hailing the government's decision to form the Health Profession Education Commission under Dr Bhagwan Koirala, Mathema, however, said circumventing the rule to run the Manmohan institute was "unfortunate".

A meeting summoned by the Mathema Commission on Saturday expressed its concerns against the government's conflicting move. In

the meeting, former chief secretary Leela Mani Paudyal expressed his concerns on the move to legitimise the operation of a private organisation through an Act in a way to set a bad precedent.

According to sources, parliamentarians including Pandey and Mishra are lobbying for the bill's passage from Parliament. A source claimed that the office bearers of the institute have misused and misinterpreted a letter from the University Grants Commission that states that the Manmohan Institute should be granted affiliation if the government takes over its property and converts it into a public institution. In the past, 146 parliamentarians led by Pandey had threatened to disrupt Parliament if the government did not grant affiliation.

The government on December 25 presented the Manmohan Adhikari Academy of Health Sciences-2015 Bill to legitimise the operation of the Manmohan Institute of Health Sciences.

IV. CASE 6 (2016)

- Over four dozen MPs with investments in private schools defeat public education reforms

MPs, lobbyists against Edu Act amendment

BINOD GHIMIRE
KATHMANDU, JAN 2

Private school lobbyists and lawmakers have stood against the legislation on restructuring school-level education, a major part of the multi-billion School Sector Reform Programme (SSRP) adopted six years ago.

They have even warned of stalling the process if their concerns are not addressed. Over four dozen lawmakers from different political parties in the Legislature-Parliament, who have direct investment in private schools and colleges, have sought to incorporate their demands. If the government bows to the pressure, the very objective of the reform that aims to make basic education free for all and restructure ownership to make it less profit-driven will be undermined.

The government last week

EFFECTING LONG-OVERDUE REFORM PLANS



- Restructuring school education in two categories: Basic (grades 1 to 8) and secondary (grades 9 to 12)
- Schools to be run in cooperative model
- Replacing the Higher Secondary Education Board with Central Examination Board
- Ending decades-long problem of temporary teachers

V. Recommendations

- *Determine a **realistic legal limit** for campaign expenses.*
- *Require EC to create a **code of conduct** for parties, politicians, donors, and other stakeholders with recourse to strict penalties and enforcement mechanisms.*
- *Empower the EC to both **investigate** parties and candidates as well as scrutinize submitted financial documents.*
- *Require parties and candidates to **disclose** campaign expenditures and all donations over \$250 to EC within 45 days of election. Make these documents **public**.*
- *Create a **donation limit**.*
- *Oblige EC to make donor and campaign expenditure documents **public** within 6 months of election.*

V. Recommendations

- Institute a **3% threshold** for elections and provide all parties in parliament with **state funding** based on the votes they received in the previous election.
- Raise the **financial deposit** required to contest in an election to discourage “dummy candidates”.
- Call on government to effectively **regulate** political payments from businesses and trade unions.
- Provide **state-funded postage** for election literature and **free or subsidized broadcasting** for all parties represented in parliament.



Thank You