

Closing the COVID Accountability Gap:

Rapid Reaction by the Public Accounts
Committee in Nepal

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In 2021, the International Budget Partnership published an assessment of 120 countries' management of COVID relief, which found that too many governments were using the excuse of urgency to avoid being as transparent, accountable or inclusive as they could be. These shortcuts and limitations, however, are neither necessary nor inevitable. IBP's report showcased notable instances in which governments acted swiftly to put in place adequate transparency around their policy responses, where accountability institutions — such as legislatures and supreme audit institutions (SAIs) — stepped up to provide effective oversight, and civil society organizations contributed information on the needs of the most vulnerable. In a series of briefs, we have taken a more in-depth look at these good practices — delving into government objectives in implementing the practices, the impacts achieved, and lessons that can be drawn from these practices for their replication in other countries. The main goal of these briefs is to provide governments with information on good practices in fiscal openness and accountability that they can incorporate into their own policies, to be implemented during periods of crisis and beyond.

This brief looks at the response by the Nepalese Parliament to COVID-19 funding, in particular at the rapid reaction of the Public Accounts Committee (PAC) to alleged irregularities in COVID-19--related public procurement during the early stages of the pandemic. The PAC is the parliamentary oversight entity in Nepal, one of three institutions tasked with ensuring public financial accountability in the country.¹ The other two are the auditor general as a constitutional oversight entity and the Public Expenditure and Financial Accountability (PEFA) secretariat as executive agency (Dhungana, 2019). The PAC in Nepal is not considered a strong institution by international standards. In cross-country comparative assessments, Nepal scores below average on legislative financial oversight. It received a score of 33 out of 100 on legislative oversight of the annual audit report as well as participation by the supreme audit institution in legislative hearings in the 2019 Open Budget Survey (International Budget Partnership, 2020²).

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¹Specifically, the mandate of the PAC is to “check the unsettled amounts referred to in the Annual Report of the Auditor General submitted to the Legislature-Parliament and study and decide on the activities of the Auditor General and decide on whether or not the actions and activities conducted by the concerned bodies on the report of the Auditor General are as per the laws and are carried out in meaningful manner and check the public accounts of other public bodies, and introduce report to the House before submission of the annual estimates.” (Nepal Law Commission).

²This compares to an average of 44 out of 100 across the 117 countries that were included in that edition of the Open Budget Survey. These findings are based on an analysis of the survey data undertaken by the INTOSAI Development Initiative in the summer of 2020.

As in many other countries at the beginning of the COVID-19 pandemic, there was confusion within the government of Nepal about how to deal with the developing crisis — specifically, how to acquire the necessary health equipment that was not available in the country. The Ministry of Health and Population set up a fast-track process for procurement based on consultation with health-care professionals, government agencies and domestic business sector representatives. At the time, there were existing procurement guidelines, rules and regulations in place that included a fast-track process. However, as the crisis unfolded the rules and regulations were not followed.

In April 2020, at the onset of the pandemic, media in Nepal started reporting on irregularities concerning a contract given to a company called Omni Business Corporate International. On March 25, 2020, as Nepal recorded its first COVID-19 cases, the company was awarded a government contract to supply a variety of medical equipment from China — personal protective equipment, reagents and more. This company had no prior experience with the importation of medical goods, nor did it have documents to show it was tax compliant (Pradhan, 2020a).

Concerns were reported in the media that the correct public procurement processes had not been followed: that the company had received favorable treatment to enable it to win the contract, despite quoting higher prices than market conditions dictated and despite supplying COVID test kits of substandard quality (Shrestha, 2020; Poudel, 2020).

The government of Nepal responded to media reports by canceling the contract on April 1, 2020. But by that point, Omni Business Corporate International had already purchased and imported the goods into the country (Poudel, 2021). The government accepted the goods — as they had no alternative given the emergency — but did not pay the company. Omni has taken the government to court for breach of contract; the matter has not yet been settled.

Meanwhile, there was a widespread belief among citizens that the contract was corrupt and that it had been canceled as a cover-up. This widespread distrust in the government's handling of the pandemic has been amplified by the large youth protests that have taken place under the auspices of the Enough is Enough campaign. The campaign, begun in June 2020, has continued throughout the pandemic to demand accountability and a better response from the government (Bhattarai, 2021; Aryal, 2021).

Scrutinizing the controversial contract

The PAC in Nepal makes decisions about the issues it will consider based on the work program of the office of the auditor general (the supreme audit institution) and on leads from the public and media concerning irregularities in matters of public finance. Since the office of the attorney general only audits selected cases in the following year, this path does not enable the PAC to be agile and respond to potential irregularities as they are occurring. The same constraint does not apply to those cases that are selected by the PAC based on leads from the public and the media.³ Thus, this brief concerns an investigation initiated by the PAC that was based on alleged irregularities reported in the Nepali media.

The PAC decided to act on the Omni Business Corporate International allegations and commence an investigation. The PAC chose to study this case in detail for reasons in addition to media attention. COVID-19 was a major new issue for the country, and this particular contract was not only sizable in terms of budget but had also been issued in the context of a public emergency. So the Omni contract functioned as a test case for the PAC to check mismanagement and fiduciary risks and to safeguard against irregularities going forward.

The PAC set up a subcommittee to take on the case.⁴ The PAC then wrote to the Ministry of Health and Population and asked for clarity on the process by which the controversial contract had been handled, including available documentation. The PAC encountered some obstacles in the form of limited information provided by the Ministry of Health and Population (some relevant documents intentionally failed to reach the PAC), but collaborators from the media were able to collect the documents from informal sources and share them with the PAC Secretariat. The PAC found that even though the Minister of Health and higher-ranking officials had been assigned the power to purchase, they had not been involved in the process. Instead, the chief advisor to the minister had negotiated and authorized the purchase, which was against protocol. The PAC also investigated whether the quote for the goods had been acceptable, which they concluded was not the case (Pradhan, 2020a).

³Individuals and institutions can submit complaints directly to the PAC Secretariat, addressing the chair. Leads from media are simply information found in media outlets that the PAC decides to follow up on.

⁴This is common practice at the PAC in Nepal. Subcommittees are formed to probe into specific cases. They produce a report with findings and recommendations that are subsequently discussed in the full PAC meeting (International Budget Partnership, 2020).

Following these findings, the PAC invited Ministry of Health and Population officials involved in the contract to a meeting; they apologized and explained that the purchase had been made in good faith. The PAC was not convinced and decided to initiate a full investigation (Pradhan, 2020b). To do so, the PAC solicited the help of the Public Procurement Monitoring Office (PPMO), which is the only authorized office for the monitoring of public procurement. The PPMO, in turn, set up a team to study the Omni Business Corporate International case in detail and then submitted a report to PAC. Based on this report, the PAC concluded that fraudulent activities had occurred and should be investigated in full. In December 2020, the PAC asked the Commission for the Investigation of Abuse of Authority (CIAA), the country's anti-corruption commission, to proceed with a corruption investigation (Himalayan News Service, 2020). This investigation is now in the courts and the CIAA will issue recommendations to the PAC when a verdict has been reached (Shrestha, 2021a).

To date, the PAC's investigation has resulted in a recommendation to the Ministry of Health and Population (and the government in general) that if a fast-track procurement process is to be used, a minimum set of rules and procedures must be followed to ensure that the quality of goods is assured and that prices are not inflated. The committee has ordered the same ministry to immediately correct its procedure to ensure competition among prospective suppliers. The PAC has furthermore given direction to the PPMO to strictly adhere to the procurement act and regulations when goods are purchased during emergencies.

Meanwhile, a report by the office of the auditor general, "Special Audit Report on Covid-19 Management," was published in August 2021.⁵ It confirmed the PAC's findings of irregularities in the procurement procedures in relation to the contract awarded to Omni Business Corporate International (Shrestha, 2021b).

⁵The audit report is available in Nepali language at: <https://oag.gov.np/menu-category/940/ne>

PAC's engagement during the early pandemic

By the time the PAC turned its attention to the government's contract with Omni Business Corporate International, that particular contract had already been canceled. But the PAC's response resulted in other, longer-term impacts.⁶

By scrutinizing procurement procedures and resultant contracts in the early part of the pandemic, the PAC helped the government to course-correct, strengthening procurement processes and likely helping avoid other controversial fast-track contracts. In the event of future emergencies, the government will be aware of what constitutes acceptable procurement practices.

In addition, the PAC's handling of the situation helped raise the status of the PAC within Parliament as well as among citizens. Members of Parliament now wish to join the PAC to raise bigger and bolder issues. The fact that the PAC is chaired by a member of the main opposition party — whereas most other parliamentary committees are chaired by members of the ruling party — also raises hopes that the committee can provide effective oversight. For members of the ruling party, the need to defend the government is an incentive to take an active role in the PAC. Citizens have also seen how the Ministry of Health has come under scrutiny and been held to account by the PAC, and as a result more citizens have submitted applications to suggest issues.

⁶The discussion about impacts from the PAC's work on COVID-19-related procurement is primarily based on information obtained in interviews with an official of the PAC in Nepal.

Lessons from Nepal

Several lessons can be learned from the PAC's handling of COVID financing in the early part of the pandemic that can provide food for thought for PACs in other countries.

First, the PAC in Nepal was able to play an active financial oversight role at the start of the pandemic because the committee had the ability to start scrutinizing government action of its own accord and did not have to wait for action to be taken by the office of the auditor general. Autonomy in choosing what to investigate is an important prerequisite for a PAC to play an active oversight role during an emergency.

Second, cultivating good working relationships with other institutions can strengthen a PAC's position and help it carry out its functions. The media is one such institution. As mentioned earlier, the media was an important ally for the PAC in Nepal when the committee began its investigation into Ministry of Health and Population procurement and the ministry then tried to stall the flow of information. As a result of this kind of fruitful collaboration, the media is now allowed to live-cast what is happening in the PAC in

Nepal; this transparency is seen as beneficial to the PAC. Other actors and institutions — including other oversight bodies, such as the CIAA and PPMO — and civil society organizations can help strengthen the PAC by providing important expert opinion and technical suggestions.

Third, a lesson that emerged in interviews with an official at the PAC in Nepal concerns the ability of a PAC to adapt its approach to oversight during times of crisis. According to this official, the purpose of a PAC making early investigations during an emergency situation should be to help the government correct mistakes quickly; this requires a collaborative approach and the continuous exchange of information between the PAC and government authorities.

Finally, according to the same official, in emergencies it is crucial that stakeholders unite in pursuit of a common goal. For the PAC in Nepal, this meant putting party politics aside and speaking with a unified voice. To achieve this, the PAC chose not to conduct any voting during the emergency, so as not to divide members into partisan positions.



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