



**Commission for the Investigation of Abuse of Authority (CIAA):
An Assessment of Institutional Capacity to Combat Corruption in Nepal**

By

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MPPG 8th Batch

August 2019



South Asian Institute of Policy and Governance (SIPG)
North South University



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South Asian Institute of Policy and Governance (SIPG)
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Dedicated to

My respected parents, Rajaram Lamichhane and Subhadra Lamichhane who brought me into this beautiful world and for their unconditional love, encouragement and support.

Declaration

I declare that the dissertation entitled “**Commission for the Investigation of Abuse of Authority (CIAA): An Assessment of Institutional Capacity to Combat Corruption in Nepal**” submitted to the PPG Program of North South University, Bangladesh for the degree of Master in Public Policy and Governance (MPPG) is an original work of mine. No part of it, in any form, has been copied from other sources without acknowledgement or submitted to any other university or institute for any degree or diploma. Views and expressions of the thesis bear the responsibility of mine with the exclusion of PPG for any errors and omissions to it.

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Abstract

This thesis attempted to assess the factors affecting institutional capacity of The Commission for the Investigation of Abuse of Authority (CIAA) to combat corruption in Nepal. The study was based on the empirical research through the analysis of the responds from CIAA Officials and key Informants generated from specific set of questions. The research examined the institutional capacity of CIAA which is the constitutional body to control corruption in Nepal and also assessed the factors influencing it.

In this study, qualitative method was used to get the comprehensive observation about the factors affecting institutional capacity of CIAA. The central office of CIAA was taken as a unit of analysis in this study. The data were collected through in-depth interviews with CIAA Officials and Key Informants. Altogether there were 13 respondents, and based on their response analysis was made in this study. The respondents from CIAA were selected from senior level officers to junior level officers. Descriptive analysis was made on the basis of the information obtained from the primary sources and secondary sources. The data generated from the in-depth interviews reflect the perception of the respondents. In case of the indicators of dependent variable data were mainly collected from the secondary sources. Also, the study used content analysis to draw inferences based on which conclusion was derived from the findings.

For the dependent variable which is institutional capacity of CIAA, it was found that most of the complaints that commission receives are related to petty corruption related issues and some complaints are filed with the intention to take revenge and fake also so, looking at the number of complaints received and resolved it was difficult to judge the institutional capacity of ACA of Nepal. Regarding the conviction rate it was found that CIAA is performing at satisfactory level with the conviction rate in between 60-80%. But preventive and promotional measures carried out by CIAA were found to be limited in number and in a small group of people.

Moreover, the study revealed that CIAA has been working to reduce corruption in the country but is not institutionally capable enough to carry out its functions and duties. In case of independence of CIAA, it is found that CIAA is legally independent but operationally it is not independent because of the existence of political interference during the appointment process of the chief-commissioner and commissioners. Such appointment may lead to the biased investigation and many of the people who are involved in corruption related acts can get escape by getting favor from the commissioners which makes the institution ineffective.

Also, for the human and financial resources, it was found that CIAA do possess enough financial resource but regarding human resource it is challenge for the commission to make employees competent with enough training opportunity and ensure stability in job. Moreover, the investigation and detection process of CIAA was seen to affect its institutional capacity. The accessibility of CIAA to public to file a complaint is found to be effective and also the process involved to carry out investigation was clearly mentioned in the laws but the adaptation of technology is found to be limited. Thus, making the CIAA operationally independent, increasing the competence of the employees, ensuring stability in job and adaptation of technology and IT instruments can make it institutionally capable for controlling corruption in Nepal.

Key Words: Institutional Capacity, CIAA, Legal Independence, Human Resource, Financial Resource, Investigation Process

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List of Abbreviations

CIAA	Commission for the investigation of abuse of authority
ACA	Anti-corruption agency
CPAA	Commission for the prevention of Abuse of authority
CPI	Corruption Perception Index
UNDP	United Nation Development Program
PAC	Public Account committee
OECD	Organization for Economic Co-operation and Development
CPIB	Corrupt Practices Investigation Bureau
SPD	Special Police Department
FRED	Forensic Recovery Evidence Device
FREDDIED	Forensic Recovery Evidence Device Diminutive Interrogation Evidence Device
IACA	International Anti-Corruption Academy
MACA	Malaysian Ant-corruption Academy
GON	Government of Nepal

Chapter One

Introduction

1.1 Background

Corruption has been a major problem in many parts of the world mainly in developing countries (Mauro, 1995). With the aim of reducing corruption, Anti-Corruption Agencies (ACA) are formed which are specialized state bodies mandated to address corruption. They have a specific mission to fight against corruption and to reduce the opportunity structures propitious for its occurrence in society through preventive or repressive measures (Sousa, 2009). Even though, after having a separate government entity with a specialized function to reduce corruption, the level of corruption has not been reduced in most of the developing countries because of which institutional capacity of ACA comes into question.

Also, various researches have been carried out by Transparency International, World Bank, and other organizations regarding the effectiveness of anti-corruption agencies and the factors affecting their performance. Likewise, comparative analysis of anti-corruption agencies of various countries has been carried out to determine their level of effectiveness. It is essential to see whether the main watchdog of corruption that is anti-corruption agency is institutionally capable to combat corruption or not so that it will contribute in enhancing ACA performance thereby promoting good governance. This research is an attempt to assess the institutional capacity of the anti-corruption agency of Nepal which is CIAA. This gives an idea on whether CIAA as an institution possesses the required capacity to work effectively in achieving its mission or not. Also, very few researches have been carried out related to anti-corruption agency in context of Nepal and I believe this study contributes to better understanding of factors affecting institutional capacity of the anti-corruption agency of Nepal.

1.1.1 Conceptualizing Corruption

The word corruption is derived from the Latin word “corruptus” which means corrupted and in legal term it is the abuse of trusted position in one of the branches of power that

is either executive or legislative or judiciary and in other organization with the intention of making benefits which is not legally acceptable (Sumah, 2017). It is defined as the abuse of power for private gain (Transparency international[TI], 2018). Corruption Perception Index (CPI) of 2018 reveals that corruption is contributing to crises of democracy (Transparency international, 2018) which means that corruption is serious problem in today's world. There are mainly three different areas where the impact of corruption is seen. In a political sector in terms of affecting rule of law and democracy, in economic sectors by reducing the national wealth, in the social sector by reducing people's trust in political system and leadership (Dancikova, 2012). Likewise, corruption can also be defined in terms of behavior. It is the behavior that deviates from the formal duties of a public role for private gain or status gain (Nye, 1967). Though corruption is a global phenomenon that is affecting countries across the globe, this problem has particularly adverse implication for poor countries (Olken and Pande, 2012). Nepal being as poor country, corruption exists almost in all sectors which is considered as a threat to development. Also, Nepal has historically shown poor performance in terms of combating corruption looking at CPI ranking. So, for the better future of the country, it is necessary to prevent corruption and for this a capable anti-corruption agency is required.

1.1.2 Anti-Corruption Agency of Nepal- CIAA

In Nepal, the Commission for the investigation of abuse of Authority (CIAA) is working as an anti-corruption agency. Looking at the history, Nepal enacted the first anti-corruption law in 1952 after which "Nepal Corruption Eradication Act, 1952" was formulated and "Corruption Eradication Department" was established with the aim of reducing corruption (Acharya, 2015). The same anti-corruption law was later replaced by a new law in 1956 and 1961 which led to the establishment of "Special Police Department" which was responsible for looking at the corrupt practices ongoing in the country. The second amendment of the Constitution of Nepal 1962 leads to the establishment of the Commission for the prevention of Abuse of authority (CPAA) in 1975 (Acharya, 2015). After the democratic change in 1991, the Constitution of the Kingdom of Nepal ,1990 replaces CPAA with CIAA (Commission for the investigation of abuse of authority)

(Acharya, 2015). Therefore, the current anti-corruption agency was established on 11th February 1991 after which the CIAA Act, 1991 was introduced. The Commission has initiated a number of approaches and strategies for identifying corrupt practices of the public sector since its establishment. Altogether 8 regional offices of CIAA is working at a different part of the country (CIAA Website). Article 239 of the Constitution of Nepal 2015 describes the rights, duties, and responsibilities of CIAA. CIAA is headed by 1 chief commissioner and 4 commissioners for 6 years period appointed by the president on the recommendation of Constitutional Council(CC) (Constitution of Nepal, 2015).

Likewise, other anti-corruption body includes National Vigilance Center (NVC) which major focus is on awareness raising and corruption prevention, Special Court, Office of Attorney General and Judicial Council.

1.1.3 Institutional Capacity of Anti-Corruption Agency

Capacity refers to the ability of individuals, organizations, and systems to perform their functions efficiently, effectively and sustainably (Kruse et al, 1998). “The institutional capacity elements include organizational structural arrangements, human and financial resources, enabling legislation, planning capabilities, and the support from the agency’s environment through its different stakeholders” (Kakumba, 2012, p. 87). The capacity of anti-corruption agency can be measured in many tangible ways like the growth in the agency's budget, a number of the personnel and its output (Quah, 2007). The output here means the number of people prosecuted and conviction rates. Gregory (2015) also points out that ACA with a severely limited capacity will be ineffective regardless of whether or not it is politically independent and accountable. Therefore, for an ACA to work effectively it must be institutionally capable.

1.2 Statement of the Problem

In Nepal, CIAA is working as an anti-corruption agency since 1991 with a single mission and vision to reduce corruption. Based on the report published by Transparency International (TI), the table below here shows the CPI ranking of Nepal in the last 5 years. It has been 28yrs since the establishment of CIAA as anti-corruption but significant change

has not been seen in the score of Nepal and it is still very less than the average score. Therefore, this shows that anti-corruption agency is working but not as effective as it needs to, to reduce the corruption in Nepal. Thus, it raises the question about the institutional capacity of CIAA.

Table 1.1 CPI Ranking of Nepal

YEAR	RANK 1=less corrupt	SCORE 100=very clean 0=highly corrupt
2014	126/175	29
2015	130/168	27
2016	131/176	29
2017	122/180	31
2018	124/180	31

Source: TI Website <https://www.transparency.org/>,2019

Also, the table below shows the cases registered and settled by CIAA in different years. It is noted that CIAA has not been able to settle the total registered cases. Though CIAA may report that they are doing good the result is still lacking and the gap is there.

Table 1.2 Cases Registered and settled by CIAA

Year	Cases Registered	Settled cases	Percentage of settled cases (%)
2013-2014	22,602	12,892	57
2014-2015	31,213	21,648	69
2015-2016	24,691	16,694	67
2016-2017	19,580	11,860	60.5
2017-2018	19,488	12,400	63.32

Source: CIAA Website <http://ciaa.gov.np/>,2019

Various anti-corruption initiatives such as CIAA Act, 1991, Corruption Eradication Act, 2002 have been formed in Nepal but the level of corruption remains unchanged. CIAA is not working properly due to some lack of authority and institutional expertise as well as logistic and technical support (Transparency International Nepal, 2013). The commission has found it difficult to take action against people in positions of power because of political interference. Also, CIAA has been without a Chief commissioner for several years. It is because of the disagreement among the political parties and the strategy of the corrupt politician who wants to remain in the office (Bhattarai, 2013). Ghimire et al (2013) also mentioned that the capacity of CIAA has not increased to be able to manage the rising complaints.

For, an anti-corruption agency to work effectively it should be capable enough to carry out its duties and responsibilities and its capacity is determined by various factors. For a successful ACA it requires adequate funding at the right times for appropriately specified tasks (Doig, Watt and Williams, 2005). Lack of funds, human resources, information technology, equipment, and facilities, particularly in developing countries, often constrain an ACA's ability to function (Doig, Watt and Williams, 2005). This shows that anti-corruption agency without having adequate fund and resources cannot perform well.

1.3 Rationale of the Study

ACAs should be studied for various reasons as such these anti-corruption agencies are fairly new in the world but they are increasing rapidly adopting national anti-corruption programs with single issue-oriented and sole mission to control corruption (Sousa, 2009). Various studies have been carried on measures of corruption control but they neither have focused on specific anti-corruption institutions nor qualitatively evaluated their presence (Mungiu-Pippidi, 2015). Since the Anti-corruption agency represents the core government institution for anti-corruption reforms limited study on it is surprising.

The global anti-corruption industry's put the main focus on institutional reform to prevent future corruption (Ivanov, 2007, p. 28). While studying the ACA's the issue of concern includes specific aspects of institutional design such as a mismatch of workload and

resources (Doig, 2010). ACAs which are established under the constitutional provision should have adequate powers, sufficient resources, and specialized staff to carry out its or their functions effectively and free from any undue influence (Transparency International Nepal, 2013). Gemperle (2018) mentioned that ACA's with deficits in their institutional capacities are likely to be ineffective" The commitment of anti-corruption agency to control corruption has been questioned because of its ineffectiveness. According to Kakumba (2012), the performance of any organization and agency largely depends on its institutional capacity. The weakness of the institution to carry out its functions is the reason for not being able to generate the expected outcome. Therefore, considering these views it is necessary to study institutional capacity of anti-corruption agency.

In case of Nepal, CIAA as a state body has an important role in controlling corruption. Corruption is considered as the symptom of governance failure so it is necessary to have an effective anti-corruption agency. Therefore, institutional capacity plays an important role to determine ACA effectiveness. The institutionally capable anti-corruption agency is able to achieve its core mission by carrying out its assigned duties and responsibilities. A related question comes regarding the importance of the institutional capacity of such agencies which are working for a single purpose with core mission. Why is it necessary to have a required institutional capacity for anti-corruption agencies? While institutional capacity of ACAs is not related with single component but with multiple factors ranging from legal framework to the output it generates study on it is important. Considering the Nepal case study on CIAA bears greater importance as very few researches have been conducted on this topic before and also this will contribute for better understanding of ACA of Nepal.

1.4 Research Objective

The objective of the study is:

1.To assess the factors affecting institutional capacity of the anti-corruption agency of Nepal.

This study looks at whether the CIAA possess the required capacity to carry out its functions or not measured in terms of different variables. It will be interesting to look on which of the institutional factors have greater influence in the performance of CIAA. This will ultimately give the direction to adopt the various initiative for developing the institutional capacity of CIAA.

1.5 Research Questions

The research questions of the study are:

1. What policy provisions are there in CIAA Act in reducing corruption in Nepal?
2. How do the CIAA independence, Resources, Investigation and Detection Process affect the Institutional Capacity of CIAA?

1.6 Methodology

For the research methodology, qualitative method was used. Data was collected from primary and secondary sources. The primary source of data was collected through interview with the CIAA officials and Key Informants which includes legal expert, civil society members, retired civil servants. The secondary source of data was collected from the Document Analysis (Existing Acts and Laws, Strategy papers, CIAA Act 1991, Anti-Corruption Act 2000), Annual Report Published by CIAA and the report published by other agencies like Transparency International Nepal regarding corruption issues.

1.7 Significance of Study

In particular, only limited attention has been placed on how to evaluate the policy systems, institutions, and processes aimed at bolstering corruption's antithesis and the obvious importance of understanding as to why so many anticorruption efforts seem ineffective, and of identifying what makes for relative success (Brown and Heinrich, 2017). Much of the work on anti-corruption over the last two decades has focused on identifying mechanisms to reduce the incentives for corrupt activity, or else on establishing institutional structures to enhance the capacity to detect and curb corruption (Heywood and Johnson, 2017). Tackling corruption has proven to be one of the most unmanageable policy problems for governments and civil society worldwide (Brown and Heinrich, 2017)

thus anti-corruption agencies were formed. Study on Institutional capacity of the anti-corruption agency helps to determine the performance of the ACA and how effectively it has been working in reducing the corrupt practices. Thus it is necessary to assess the factors influencing the institutional capacity of ACA. In the case of Nepal, this research helps to understand whether the CIAA has enough capacity to work effectively in controlling corruption or not.

1.8 Limitation of Study

The objective of this study is to assess the various factors affecting the institutional capacity of anti-corruption agency of Nepal. But this does not analyze all the factors that affect the institutional capacity of CIAA. It only includes three factors which are Independence of CIAA, Resources and Investigation and detection process. Selection of the respondents was challenging because they need to be selected based on their experience in this field. As CIAA is an anti-corruption agency it was hard to get all the information from its central office only the published information was provided. CIAA officials were not ready to disclose all the information so only the limited information was provided during interview which limits the data collected. Also, data related to allocation of financial resources into different budget heads was difficult to generate.

1.9 Chapter Outline

The chapter one is introduction which deals with the issue of study, problem statement, rational, research questions and objectives of the study. Likewise, chapter two presents the conceptual understanding, theoretical discussion and analytical framework including literature review and variables. The third chapter presents an institutional overview of CIAA which includes its development history and principal laws guiding CIAA. In fourth chapter it describes the methodological aspects including approaches and designs of the study whereas chapter five chapter is dedicated to data presentation and data analysis and the last chapter presents the major findings in detail along with the concluding remarks.

Chapter Two

Literature Review and Analytical Framework

The previous chapter focused on the general background of the study with the specific research questions which also highlights the research objective and significance of the study. In this chapter, the focus is on literature aspects and to develop an analytical framework. This chapter mainly reviews the literature on anti-corruption agency and institutional capacity to give insight into the institutional mechanism of anti-corruption agencies. It reviews the literature on Anti-corruption agencies (ACA) and institutionally related factors affecting the institutional capacity and effectiveness of ACA. This chapter also deals with the analytical framework of this research study which is identifying the variables and their indicators along with the operational definition of variables.

2.1 Capacity: An Overview

Capacity is a widespread term mainly related to individual, institution and state in developing contexts. Various definition of capacity has been generated from different streams. In political science, capacity has been referred to as a relevant feature of state with autonomy. State capacity thus refers to the capacity of the state to carry out its essential functions (Garcia (2011) as cited by Isaza, Herrera, Lozano, and Mendez, (2015)). Here, capacity is taken as a power to do something in the bounded setting that means capacity is a power or rule of law. Likewise, Mann (1993) added capacity as the state capacity to carry out decisions such as to implement policy decision, collect taxes, provide security. Also, Capacity as a state condition focuses on managerial, professional and technical capacity (Cohen, 1993).

According to Kruse et al (1998), capacity refers to the ability of individuals, organizations, and systems to perform their functions efficiently, effectively and sustainably. Christensen and Gazley (2008) mentioned that the term capacity is referred to as a multi-dimensional, multi-disciplinary and context-sensitive concept which developed both empirically and conceptually. They unfold the ways in which capacity has been addressed on the practical word and how it differs from other concepts. Capacity can also be defined

from a systemic perspective. Here, capacity is taken the whole as a system. Zinke (2006) as quoted by Isaza et al. (2015) define capacity as the overall ability of a system to perform and to sustain itself. It involves mobilizing the resources, solving the problems, collaborating with others. Sometimes capacity is also viewed as a potential to use the resources effectively and show a higher level of performance.

In development practice as well capacity is defined in various ways. According to OECD (2006) capacity is defined as the ability to manage and handle the affairs successfully. EU definition of capacity refers to it as an ability to perform the tasks and generate a result, to define the problem and create a solution for it and to make an informed choice (ECDPM, 2008). UNDP defines it as individuals, organizations, and societies ability to carry out its functions, solve the problems, meet the goals and objectives in a sustainable way (Measuring Capacity, 2010). These definitions of capacity based on development perspective focuses on the individual or organizations ability to execute its functions.

According to Isaza et al. (2015), the nature of capacity is dynamic and it relates to the ability to perform the task effectively, efficiently and sustainably. According to him capacity is viewed based on the three-level of analysis that is organizational, institutional and individual. The first analysis is based on the organization level where the capacity lies in an organized group, the second analysis is based on the capacity for institutional arrangements or institutions and the third one is related with capacity of an individual. Cohen (1993) argues that capabilities show efficiency, ability, and competence. So, sometimes capabilities also refer to capacity. Also, in some cases, some measurements of capacity are performance measure (Isaza et al., 2015). According to World Bank capacity is effective performance of public organizations. This gives the idea that effectively performing public offices is considered to bear enough capacity to carry out its assigned responsibilities and duties. But, some scholars argue that capacity should be kept distinct from a performance. One view over this argument is that organization capacity and performance is linked with inputs and outputs in a broader sense.

As quoted in Isaza et al. (2015), Delgado (2013) points out the set of attributes that are required to achieve the result in public organizations which includes a variable like internal organization budget, qualified personnel, human resource policies, and inter-organizational relations. Senge and Suzuki (1994) relates capacity with human resources especially focused on their abilities and knowledge. Therefore, considering the views of different writers the term capacity holds different meaning in different context and can be viewed based on individual, organizational and institutional level and is measured through various indicators based on its level.

2.2 Literature Review on Institutional Capacity

According to Garcia (2011) as quoted by Isaza et al. (2015), Institutional capacity is state capacity to implement its decisions. She also points out that Institutional capacities have been well-argued theoretically but not defended empirically. Isaza et al. (2015), view that institutional capacity refers to the organization ability to do what it is supposed to do. Likewise, Evans, (2012) points out that Institutional barriers refer to internal organizational issues which impact adversely on the capacity of public organizations to create and deliver public value.

According to UNDP (2010), Institutional Capacity is something in a system that facilitates or hamper the performance of an individual or organization. This view mainly focuses on the outcome that can be derived from strengthening institutional capacities. As purposed by UNDP (2010) the framework to measure the institutional capacity consists of three aspects and four pillars. Three aspects include stability, performance, and adaptability and four pillars include leadership, knowledge, accountability and institutional arrangements. According to Willems and Baumert (2003), institutional capacity is related to empowerment, creating an enabling environment, social capital and values, and culture. It represents an enabling environment where individuals and organizations can interact. It analyzes the functions that need to be carried out to achieve a certain objective. Wang, Deutz, and Chen, (2016) points out that institutional capacity refers to the administrative capacity of the agencies to respond and resolve the collective problems and it is a dynamic condition rather than a static condition.

According to Brown and Heinrich (2017), the institutional analysis needs to be based on the social, political, economic and cultural foundations of the anti-corruption system of the country Likewise, Christensen and Gazley (2008) points out that in Public management the measurement of institutional capacity is based on the resources, staff, external relations, management systems, leadership, external relations, and information technology systems. As pointed out by Morgan and Taschereau (1996) various factors come to play while profiling the institutional capacity which includes:

Firstly, forces in an external environment (administrative, political, legal, cultural, economic)

Secondly, institutional factor (culture, structure, leadership, human and financial resources, history, mission)

And Inter-Institutional Linkage

Table 1.3 Summary of the Literature Review on Institutional Capacity

Authors	Major Findings
Gracia (2011)	State capacity to implement its decision
UNDP (2010)	three aspects stability, performance, and adaptability to measure institutional capacity
Wang, Deutz, and Chen (2016)	the administrative capacity of the agencies to respond and resolve the collective problems
Brown and Heinrich (2017)	institutional analysis needs to be based on the social, political, economic and cultural foundations of the country
Evans (2012)	Inter-organizational issues adversely affect the capacity of Public organization
Willems and Baumert, 2003)	institutional capacity is related to empowerment, creating an enabling environment, social capital and values, and culture
Christensen and Gazley (2008)	measurement of institutional capacity is based on the resources, staff, external relations, management systems, leadership

2.3. Anti-corruption Agencies

Millions have been invested in financial and technical assistance to projects and programs for developing remedies to the new pathology of corruption (Sampson, 2010). Linking

Corruption to institutional weakness and portraying it as an antipode to good governance contributed to the emerging international charters on anti-corruption (Gemperle, 2018). Inter-American Convention against corruption in 1996 to the United Nation Convention Against Corruption 2003, all suggested the need for establishing agencies or state bodies specialized in preventing or combating corruption (Recanatini, 2011). Consequently, the number of ACA's growth increases rapidly and in between 1995 and 2005, 50 new ACA's were established whereas before 1990 only 14 ACA's was there (Gemperle, 2018). The first formal ACA was the New York City Department of Investigation established in 1873, and Singapore's Corruption Practices Investigation Bureau established in 1952. The author also noted that after the cold war, governments started establishing ACA to mitigate corrupt activities in society (Kuris, 2015). This is how anti-corruption agencies were developed in the world as a government body to tackle corruption.

2.3.1 Literature Review on ACA's: World Context

According to Evans (2012) Integrity refers to the application of values, principles, and norms in the daily operations of public sector organizations. He points out that integrity in public administration is as a metaphor for the crafting of accountable, transparent, competent and responsive public administration underpinned by the concept of public value. According to him integrity agencies should not be agencies of government but should be financially and legally independent from government to perform their function. He argues that the design of effective integrity agencies requires a broad understanding of the obstacles to the achievement of integrity in public administration, the options for integrity reform and the appropriate strategic framework for implementing them. Dewey (1961) argument is that integrity agencies play a fundamental role in enhancing the political literacy of the citizenry and for this, it requires political independence, the support of elected politicians, and appropriate legal, financial and human resources. Heywood and Johnson (2017) mentioned that if we see a collapse in integrity in watchdog agencies it will inherently encourage more unethical behavior as integrity system is complex and intertwined.

Gemperle (2018) underlined that ACA capacity to carry out its function largely depends on whether it is politically independent or not as politically influenced ACA has less capacity in executing its function. He noted that ACAs having sufficient institutional capacity, like having an appropriate budget and manpower is expected to perform its function effectively. Therefore, as per him the institutional capacity of ACA largely depends on its political independence, legal framework, human, and financial resources. Gemperle (2018) also introduced a new index of ACA capacity known as ACA index while comparing anti-corruption agencies. The index is a composite index combining measurement for institutional and functional capacities of ACAs. The index developed was used to compare the ACA effectiveness and to identify countries whose ACA's are institutionally weak. The four institutional components as described by Gemperle (2018) are Mandate, Independence, Power and Accountability, and Resources. These four components were considered as determinants of ACA performance among which Mandate includes functional capacities like Prosecution, Investigation, Prevention and other three components belong to institutional capacities.

Doig & Norris (2012) highlighted that the establishment of the anti-corruption agency is referred to as an important element of the national institutional architecture and grand strategy against corruption. The success or effectiveness of those ACAs has been a subject to criticism after their establishment for the purpose of prevention and detection of corrupt practices. The necessary solution for addressing the corruption is identified as a legal, institutional and procedural mechanism as there is an ongoing debate on how to address the corruption. Sousa (2009) noted that because of the failure of other government law enforcing bodies like the police, courts attorney-general offices to tackle the corruption, government, donors and international organizations considered ACAs as the ultimate institutional response to control corruption. Their findings show that strategic approach need to be adopted on the basis of the current infrastructure and competencies, existing capabilities to achieve the success and sustainability of ACAs. Gregory (2015) points out that ACA with a severely limited capacity will be ineffective regardless of whether or not it is politically independent and accountable. In line to this

statement Kuris (2015) mention that for making ACA more effective there are several ways: tightening internal protocols and procedures, securing fiscal and administrative autonomy, ensuring more open and independent leadership appointment and removal processes, establishing oversight mechanisms to better ensure independence, and building support coalitions capable of defending ACAs from political threats.

Quah (2007) explored that the critical factor that determines the effectiveness of the anti-corruption strategy in a country depends on the will of the political leaders and citizens to implement the anti-corruption measures to control corruption. He considered political will as the main instrument to make the ACA effective. He did a comparative study of ACAs of five Asian countries among which he found that ACA of Singapore CPIB (Corrupt Practices Investigation Bureau) is more effective because of its political independence and operational impartiality whereas China and Japan lack the political will to adopt a strategy to reduce corruption, therefore, its ACAs are found less effective. He revealed that the capacity of anti-corruption agency can be measured in many tangible ways like the growth in the agency's budget, the number of personnel and its output. Here he refers output the number of people prosecuted and conviction rates.

Sousa (2009) mentioned that ACAs are an innovative institutional response to corruption, but they are not the panacea. He urges that newly created ACAs are attracting attention to them but not necessarily for the best of reasons and lacks visible result which could lead it to the termination. Also, there are many stories of institutional irrelevance and failure and few of success to make the case of ACAs strong. This has led to the question that will they remain permanent institutional features of governmental structure or will they slowly disappear. Will ACAs continue to expand to new countries or will the demand for these specialized agencies start to fade. He highlighted some internal and external issues that restrict the ACAs performance. Internal issues involve internal governance problems, weak leadership, and inadequacy or absence of management strategies and

external issues involve lack of political will, unsustainable budgets, tense relationship with the public.

Quah (2009) analyzed that if the government wants to established ACAs to reduce the corruption then it should not be made a political weapon against its opponents but for its success, it should be provided with adequate staff and budget and by not interfering its daily operations. He also mentioned that ACA is a double-edged sword and can be used by an incumbent government for good or for evil. A clean government is supposed to use ACAs as a powerful weapon against corrupt politicians, business persons and civil servants or in reverse corrupt government will use it to victimize their political enemy. Also, his findings show that ACAs in Asian countries have failed not only because of the lack of political will and capacity but also because their policymakers have not addressed the causes of corruption. He suggested that to resist the institutional failure of ACA's political leaders must be committed to reducing corruption that means government support is required. ACA quality is a reflection of the quality of government and the state of governance in the country.

Passas (2010) generalized that with having a good intention various efforts made to improve governance and anti-corruption works is seen unsustainable and ineffective with resource wastage as politicians are based on big impressions and short term result. He also mentioned that Islands of integrity may be created for a while, but they risk getting washed away in the near future. Doig (2010) argued that to know the outcome and the purpose of the state institutions like ACAs effect in reducing corruption it required further qualitative analysis, elaborating their capacity is 'only half the process'. Also, Meagher (2005, p. 69) points out that "ACCs in poor and badly governed states are generally ineffective, if not actively harmful".

Heilbrunn (2004) looks to the absence of laws necessary for an ACA's success which include independence from interference by the political leadership, a clear reporting

hierarchy, the presence of oversight committees, and the size of a country. He mentions that ACA becomes tools to repress political rivals and members of the opposition or previous governments become targets of the investigation. Likewise, OECD (2006) identified that many countries have established anti-corruption agencies without proper evaluation or strategy in a context where basic legal, structural and financial prerequisites were not in place. Asamoah and Ofosu-Mensah (2018) argued that the establishment of an anti-corruption commission has been seen in many cases as adding another layer of bureaucracy to law enforcement.

Table 1.4 Summary of Literature Review on ACA's: World Context

Author	Findings
Dewey (1961)	Integrity agency require political independence, the support of elected politicians, and appropriate legal, financial and human resources
Sousa (2009)	ACAs an ultimate institutional response to control corruption after the failure of police, court, attorney general
Quah (2007)	the capacity of anti-corruption agency can be measured in many tangible ways like the growth in the agency's budget, the number of the personnel and its output a critical factor in determining ACA effectiveness is political will
Gregory (2015)	ACA with a severely limited capacity will be ineffective regardless of whether or not it is politically independent and accountable.
Gemperle (2018)	ACA capacity to carry out its function largely depends on whether it is politically independent or not. ACAs having sufficient institutional capacity, like having an appropriate budget and manpower is expected to perform its function effectively.
Doig & Norris (2012)	the strategic approach need to be adopted on the basis of the current infrastructure and competencies, existing capabilities to achieve the success and sustainability of ACAs.
Doig (2010)	Determining the ACA's effect in reducing corruption it required further qualitative analysis, elaborating their capacity is 'only half the process'
Sousa (2009)	ACAs are an innovative institutional response to corruption, but they are not the panacea.
Quah (2009)	ACA quality is a reflection of the quality of government and the state of governance in the country ACA is a double-edged sword and can be used by an incumbent government for good or for evil
Asamoah and Ofosu-Mensah (2018)	establishment of an anti-corruption commission has been seen in many cases as adding another layer of bureaucracy to the law enforcement

Meagher (2005, p. 69)	“ACCs in poor and badly governed states are generally ineffective, if not actively harmful”
Heilbrunn (2004)	ACA tools to repress political rivals and members of the opposition or previous governments become targets of the investigation.

2.3.2 Literature Review on ACA’s: Nepal Context

Khanal (2000) mentioned that corruption mainly political corruption is increasing in recent years due to the growing nexus among politicians, bureaucrats, and businessman. The reason behind this is not only the lack of controlling mechanism but because of the flaws in the system and unwillingness of authorities to pursue the right course of action. He mentioned that prevention of Abuse of Authority Act.2048 narrowed down its jurisdiction preventing it to take actions against the prime minister as well as ministers without his consent who are the root of high-level corruption in the country. He also mentioned that CIAA is still handicapped since its role in taking actions against the culprits is the only subsidiary to the court proceedings and the final action is taken by the court. The appointment of the chief-commissioner is faulty as the council formed to appoint them is dominated by the prime minister and only one member from the opposition. This resists to make the commission impartial. According to him CIAA is monopolized by the leaders to fulfill their political interest which itself is an act of corrupt. He revealed that Nepal has many anticorruption agencies but their works are either redundant or they themselves indulge in the corruption and ineffective because of which they are not out of corruption themselves.

He further said that former Chief of the Commission Ram Prasad Manandhar agreed that the consultation and understanding were necessary between government and the CIAA in making the implementing agencies effective. He also suggested to the government to modify laws that facilitated corruption instead of preventing it. Hridayesh Tripathi, the former chairman of the PAC suggested that CIAA will be no better than a toothless tiger if it is not empowered with adequate laws to combat corruption (khanal, 2000). Uprety (2000) mentioned that Commission Investigation Against Abuse of Authority (CIAA) and

the Special Police Department (SPD) cannot act on malpractices even when cases become loud enough for this reason they should be made more politically independent so that they can carry out their activities more effectively Likewise, Dahal (2000) noted that CIAA should be made capable of taking swift remedial action against the culprits and tighten the institutional arrangement with branch offices opened in all 75 districts. Singh (2000) finding was that there is a great need to make the CIAA a strong and effective working institution with the formulation of a separate law and separate court for the purpose of investigating crime and imparting punishment to the corrupt.

Bhattarai (2000) noted that if Nepal is serious about controlling corruption then for an anti-corruption agency to operate successfully it should possess a commitment at the highest level of government, public participation, operational independence with adequate power. The anti-corruption agency must have the power to freeze assets, travel documents those of suspects.

According to Transparency International Nepal, (2013) their findings shows that CIAA is not working properly due to some lack of authority and institutional expertise as well as logistics and technical support. CIAA work is in doubt as the task performed by them is not transparent and accountable. It also mentioned that capacity building should be a priority of the government Regmee and Bhattarai (2014) analyzed that the provisions for anti-corruption agencies in constitution, laws and other areas are notable but its implementation is weak. Though they are independent by law but are not working independently. Pokhrel (2003) argued that CIAA alone cannot discharge the colossal responsibility of corruption control but it requires active assistance of the common people, politicians, bureaucrats, and civil society, lawmakers, government. Likewise, Ghimire et.al (2013) finding show that present organizational structure of CIAA seems to be inadequate to meet its growing challenges and complaints are on the rise every year and the capacity of CIAA has not increased to be able to manage the rising complaints.

Table 1.5 Summary of Literature Review on ACA’s: Nepal Context

Author	Findings
Khanal (2000)	<ul style="list-style-type: none"> <li data-bbox="623 1814 1427 1885">CIAA monopolized by the leaders to fulfill their political interest which itself is an act of corruption

Former Chief of the Commission (Ram Prasad Manandhar)	<ul style="list-style-type: none"> • consultation and understanding necessary between government and the CIAA in making the implementing agencies effective
Dahal (2000)	<ul style="list-style-type: none"> • branches of CIAA in all 75 district should be made capable
Singh (2000)	<ul style="list-style-type: none"> • need to make the CIAA a strong and effective working institution with the formulation of a separate law and separate court
Bhattarai (2000)	<ul style="list-style-type: none"> • to operate successfully it should possess a commitment at the highest level of government, public participation, operational independence with adequate power
Transparency International Nepal, (2013)	<ul style="list-style-type: none"> • CIAA is not working properly due to some lack of authority and institutional expertise as well as logistic and technical support • capacity building should be a priority of the government
Regmee & Bhattarai (2014)	<ul style="list-style-type: none"> • provisions for anti-corruption agencies in constitution, laws and other areas are notable but its implementation is weak
Ghimire et al. (2013)	<ul style="list-style-type: none"> • the capacity of CIAA has not increased to be able to manage the rising complaints

2.4 Theoretical Background

Various scholars have identified different measures that affect the institutional capacity of anti-corruption agency. According to Quah (2017), institutional capacity of anti-corruption agency is measured in terms of growth in agency budget, number of personnel and output. Here output is referred as a number of people prosecuted and conviction rate. Likewise, Evans (2012) mentions that performance of ACA largely depends upon financial and legal independence. As per Gemperle (2018) the institutional capacity of ACA largely depends on its political independence, legal framework, human, and financial resources. Kuris (2015) mention that for making ACA more effective there are several ways: tightening internal protocols and procedures, securing fiscal and administrative autonomy, ensuring more open and independent leadership appointment and removal processes, establishing oversight mechanisms to better ensure independence, and

building support coalitions capable of defending ACAs from political threats. These factors also influence the institutional capacity of Anti-corruption agency.

Transparency International develop a framework to measure the performance of ACAs with the help of practitioners and specialists in the field. Based on this framework of transparency international the study has been already carried out in 6 different South Asian countries to measure the effectiveness of anti-corruption agency of each country. The framework consists of seven different criteria which are Legal independence, financial and human resources, detection and investigation, prevention education and outreach, co-operation with other organizations, accountability and oversight, and public perceptions which affects the performance of ACAs (Aminuzzaman, 2017). As the performance of the ACA largely depend upon its institutional capacity Kakumba (2012 p. 87), the indicators which are used in assessing the performance of ACA is linked with an institutional component of ACA. As, per kakumba (2012 p.87), "The institutional capacity elements include organizational structural arrangements, human and financial resources, enabling legislation, planning capabilities, and the support from the agency's environment through its different stakeholders". Isaza et.al (2015) points out that performance is related with getting things done, getting wished results and in some conceptualizations of capacity, there is no obvious difference with this idea. Therefore, measuring indicator for capacity is similar to the indictors for measuring performance.

After reviewing the literature on anti-corruption agency it was found that many of the researches have been conducted on ACA but not primarily focusing on institutional capacity. Also, comparative studies have been carried out but not in case of ACA of Nepal. The findings of previous researches conducted on CIAA of Nepal may not be applicable in present context because after the formulation of new constitution the laws has been changed so the result may come different.

Variables affecting institutional Capacity of ACA

Authors	Variables
Quah (2007)	Political will, agency budget, number of personnel and output
Evans (2012)	Financial and legal independence
Gemperle (2018)	Political independence, legal framework, human resource and financial resource
Kuris (2015)	Fiscal and administrative autonomy, independent leadership appointment ,oversight mechanism
Heilbrunn(2004)	Independence from interference of political leadership, clear reporting hierarchy, presence of oversight mechanism
Aminuzzaman (2017)	Legal independence, financial and human resources, detection and investigation, prevention education and outreach, co-operation with other organizations, accountability and oversight, and public perceptions

Source: Formulated by author, 2019

2.5 Analytical Framework

Based on this literature review and theoretical background the analytical framework of study is developed as below:

Analytical Framework

Independent Variables

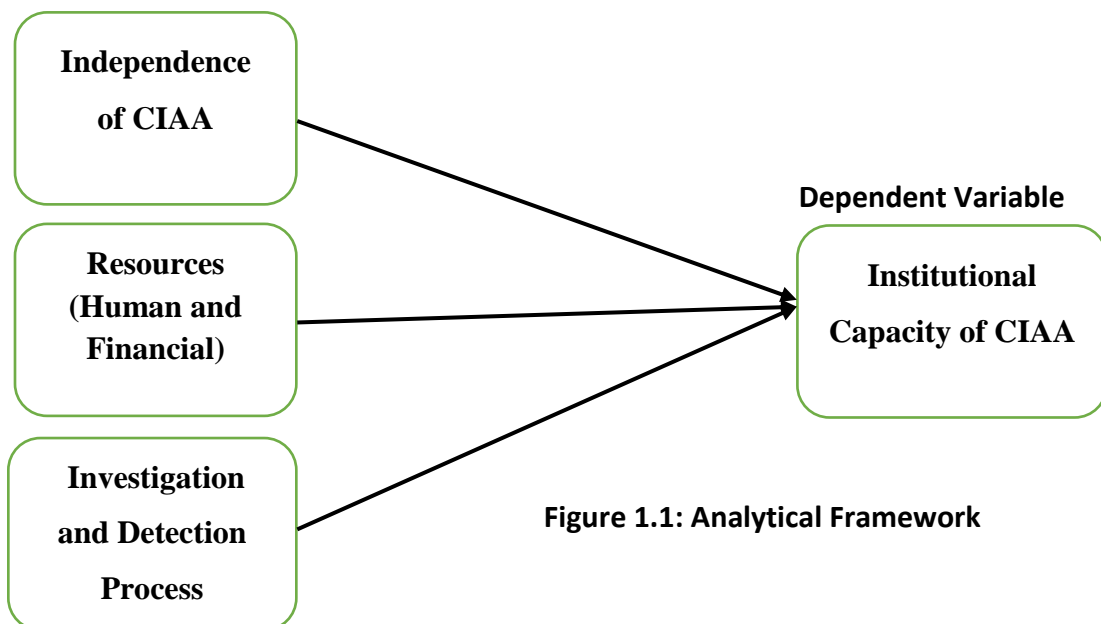


Figure 1.1: Analytical Framework

2.6 Dependent Variable and Indicators

The dependent variable is institutional capacity measured by the following indicators.

Table 1.6 Dependent Variable and Indicators

Dependent Variable	Indicators	Measured by
Institutional Capacity of CIAA	1.No. of cases investigated by ACA 2.Average conviction rate 3.No. of sting operation 4.Preventive and promotional activities	The annual report published by ACA

2.7 Independent Variables and Indicators

Four sets of independent variables are assumed to influence the institutional capacity of the Anti-corruption agency. These are Independence of CIAA, Human and Financial Resources, Investigation and Detection Process.

Table 1.7 Independent Variables and Indicators

Independent Variables	Indicators	Measured by
Independence of CIAA	1.Legal independence of CIAA 2.CIAA Mandate 3.Appointment of CIAA Commissioners 4.Commissioners terms of office and removal	Prevailing Acts and laws by which CIAA is guided and interview with CIAA officials and legal expert
Resources (Human and Financial)	1.CIAA selection criteria for personnel 2.Training of CIAA personnel 3.Stability of CIAA personnel 4.The proportion of CIAA budget to government budget	Annual report Published by CIAA

	5.Sufficiency and stability of CIAA budget 6.CIAA personnel’s salary and benefits	and interview with CIAA officials
Investigation and Detection Process	1.CIAA accessibility to corruption complaints 2.Investigation Process 3.Use of technology for investigation	The annual report published by CIAA and interviews

2.8 Operational Definition of Dependent and Independent Variables

Institutional capacity: It refers to the administrative capacity of the agency that affects its performance. Institutional capacity of anti-corruption agency can be measured in terms of various indicators such as political will, legal independence and resources,

Independence of CIAA: Independence of any agency or organization refers that it is not controlled by the government and is autonomous to carry out its function and responsibilities without having any interference. It also refers to the absence of political interference.

Resources (Human and Financial): Human resource is the total of the people who operate an organization. All the staff working at various level in an organization is termed as human resource. They are responsible for carrying out the day to day activities of an organization and contributing to achieving the goal or objective. Financial resource in public organization refers to the budget allocated by the government to carry out the organizational activities effectively. It is used to carry out the main operation of the organization.

Detection and Investigation Process: This refers to the process to collect the complaints from outsourcing and to make investigation over it. The investigation includes collecting the information from a different source to detect the crime.

Chapter Three

Research Methodology

3.1 Introduction

This chapter provides details of methodology applied in the study. Methodology is a guideline which includes description of method for solving a problem. Specific research methodology is required to address the nature and objective of the problem of the study. According to Aminuzzaman (1991) three points should be in mind while choosing an appropriate research method which are answering to the research question, current state of knowledge and the nature of variables involved in the research. This chapter briefly discusses the research design, the technique and sources through which primary and secondary data are collected to address the research questions and objective. The technique for analyzing and interpreting primary data gathered from interview questionnaire has also been discussed here.

3.2 Research Plan

It is necessary to look for a researchable topic while formulating the research plan. Identification of the problem is the most important step of a research plan. It is followed by setting objectives

and research questions based on review of relevant literatures. Likewise, a theoretical framework specifying variables and the indicators to measure the variables was designed to guide the whole research process. Before going for data collection a set of questionnaire need to be developed to obtain information in a valid and reliable manner.

The corruption is one of the burning issue in the society and anti-corruption agencies are formed with the sole responsibility to combat corruption. It has been so long that anti-corruption agency is working to reduce corruption in the country but the level of corruption has not been reduced. Therefore, to work on this issue the topic “Commission for the Investigation of Abuse of Authority: An Assessment of Institutional Capacity to Control Corruption in Nepal” was selected for this thesis.

3.3 Research Design

For a scientific study, the choice of appropriate research design is necessary. It is a framework to navigate the research journey in the selected field and finally execute the research plan. It provides ideas of what the researcher is going to do from setting the research question to the operational implication of the data analysis. According to Creswell (2009), the selection of research design is based on the nature of research problem and issues being addressed, the researcher's personal experiences and the audiences of the study. He mentions three principal approaches for conducting scientific research which are Qualitative, Quantitative and Mixed approach.

The selection of research method is based on the research questions as well as the preferences of researchers. The study aims at finding the answer of the research question as what are the factors affecting the institutional capacity of anti-corruption agency of Nepal. Also, this research mainly depends on the view of the respondents who are CIAA officials working at the CIAA as well as experts in this field, and civil society members. By considering the views of the respondents and the findings generated from document analysis this research is aimed to assess the factors influencing institutional capacity of CIAA. In this context, qualitative method is suitable to meet the objective of the study.

According to Silvermann (2006) the qualitative research methods have the ability to investigate not just the questions of what, where and when but also why and how which are fundamental to understanding phenomena being investigated. The researcher keeps focus on extracting the participant's actual thoughts about the problem. Thus, a practicable range of qualitative tools such as interview/interaction, documents review and audio materials i.e. the recordings have been used to collect, manage and analyze data.

3.4 Research Area

The data was mainly collected from central office of CIAA located at Tangal, Kathmandu. Respondents from CIAA office were the main source of providing information. CIAA have one central office and eight regional offices. Central Office was selected for the study because of the wide range of area it covers, accessibility and convenience. And also all the information regarding the cases investigated by CIAA are available from there and as a head office it has all the information collected from all the regional offices.

3.5 Study population and sample size

The study was conducted in central Office of CIAA located at Kathmandu Valley. Central Office was selected because it covers a wide area and every decision are made from the central office. Also, regional offices report to the central office and all types of information is available at central office. Purposive sampling method was selected for the study where the selection of the respondents depends on the judgement of the researcher. It was necessary to select this sampling method for this research because not everybody have required knowledge about the institutional factors of CIAA. Therefore, those who have knowledge in the field and have experience working with CIAA was selected for the interview. Seven in-depth interviews of CIAA officials working at different level was taken and 6 KII was conducted. The details of the respondents are shown in the table below:

Table 1.8 Study Population and Sample Size

Category	Designation/Occupation	Sample
CIAA Officials (7)	Spokesperson/(Joint Secretary)	1
	Under-Secretary	1
	Investigation Officer	2
	Deputy Superintendent of Nepal Police	1
	Non-Gazzated First class officer	2
Media Person (2)	Editor-in-chief (Annapurna Post)	1
	Journalist (kantipur Daily)	1
Ngo (TI Nepal)	Executive Director of TI Nepal	1

(2)	Senior Officer of TI Nepal	1
Legal Expert (1)	Joint Attorney (Office of Attorney General)	1
Retired Civil servant	Ex-Commissioner of CIAA	1
	Total Respondents	13

Source: Formulated by author, 2019

3.6 Sources of Data

In a qualitative method, research is focused in identifying, exploring, describing, explaining the problem. The research is based on both primary and secondary sources of data. Primary data are collected from the study area directly using different data collection techniques. On the other hand, books, journal articles, reports, newspapers and other relevant publications are considered as a secondary sources of data. The data collected from secondary source is very useful to analyze the relations among variables and to cross validate the primary data.

In this research primary data was collected from in-depth interview with CIAA Officials and Key informants interview which includes legal experts, civil society members, media person and retired government officials. A formal face to face interview was done. Therefore, open ended questions were designed on the basis of research objectives and to map each variable of the study. Collecting data from government body like CIAA whose major responsibility is to investigate the corruption cases is more challenging because it will be against their organizational value to disclose their internal information. The experience and the opinion shared by CIAA officials while performing their duties helped to answer the research questions. Secondary data was collected from the document analysis which also reveal the validity of data found from the interview. Documents includes CIAA Act, Laws, Constitution and published materials. Furthermore, data were collected in a written form as well as through recording with the consent of the respondents of the study.

The actual time frame of data collection was from 15 of May to 10th of June 2019. Both secondary and primary data was managed within the time.

3.7 Data Collections Tools and Techniques

In this study qualitative method was used and by considering the qualitative method, data collection technique has fixed for the study. In-depth interview with open ended questionnaire was best fit data collection technique for this study. Also, document analysis was done to see the similarity and dissimilarity of the study.

3.7.1 In-depth Interview

In-depth interview helps the researcher to collect data by face to face contact from the respondents. Interview is a very systematic method by which a person enters deeply into the life of even a stranger and can bring out needed information and data for research purpose (Aminuzzaman 1991, p.82). In-depth interview was conducted to get idea on whether the CIAA is institutionally capable to control corruption and what are the determining factors. The researcher conducted interview of seven CIAA official from joint secretary level to Non-Gazetted first class officer. Likewise, 6 key informants interview was conducted which includes legal experts, media person, retired civil servant, civil society members who are well-known about the present issues related with corruption.

3.7.2 Document Analysis

Document Analysis is also a form of qualitative research in which documents are interpreted by the researcher to give meaning to the topic. It is an effective and efficient way of gathering data as it is manageable and practical resources. It provides broad coverage of data and background information therefore is helpful in contextualizing research. Among the various types of documents public records were used which are the official record of the organization activities. Information was gathered from the Annual Report of CIAA and other published reports of CIAA. Data was also generated from acts, laws and constitution by which CIAA is guided.

3.8 Reliability and Validity of Data

Yin (2003) argues that for the reliability of research, the researcher must operationalize the process when the same process of collecting and analyzing data is repeated then the same result could be achieved whereas validity refers to the quality of instruments that has been used in the study. The quality of questionnaire in this study was enhanced by

revising it several times to make the finding reliable and valid. Likewise, both the primary and secondary data were collected in the research. During interview process, respondents were selected from legal field, media field, civil society members to generate the valid information. Also, data was collected from document analysis. Documents are stable and non-reactive data sources and the data generated remain unchanged by researcher's influence or research process. Thus, the researcher has made a greatest possible attempt to make valid and reliable findings in the study.

3.9 Challenges and Ethical Consideration

Challenges was there while collecting the data from primary sources. During the first visit to the CIAA office I was told that they could not disclose any information from the office. Then during my second visit I tried to convince them about the purpose of my research, then I was able to take interview of seven respondents but some of them were not willing to give the interview.

In a scientific study, ethical and professional code of conduct to safeguard the rights of the respondents are important and a verbal or written consent must be taken. Before conducting the data collection consent of respondents was taken. I assure them that their identity will be kept secret and the information will be used only for academic purpose. Also, audio recording was requested and those who agreed to it, the answers given by them were recorded for the data interpretation. Prior to the data collection process rapport building was followed by explaining them about the purpose of the study and the importance of their contribution in my research.

3.10 Data Processing and Analysis

According to Creswell (2009) in qualitative analysis researcher has freedom to marshal the gather data to meet the desired objective. Anaysis can begin after the researcher once the researcher finish collecting the data. There are several steps of analyzing qualitative data such as transcribing data, using electronically textual data, using inductive approach, data summarizing, data categorizing, data unitizing, and data structuring using narrative. Some processes include finding codes, codes are frequently used words in the interviews.

Some of the methods mentioned were used in this study to analyze data. To find out the answer of the research question and to meet the aim of the study the data was presented and explained carefully. As this study is purely based on qualitative method, it was necessary to reduce and transform or code the data so that it becomes readily accessible and understandable.

During my data analysis I first transcribed recorded interview into the MS word document. The data were kept in a more manageable and simplified formed. Then after, data were organized in different themes. This allowed me to have summaries of data under various category so as to construct the structure of the analysis. Thus, the interpretation of respondent's perception was coherently presented in this study.

3.11 Chapter Conclusion

This chapter provides a detailed methodology to be followed for the study. This gives an overview from the research plan to the data collection phase and data analysis plan. It explained the research design, research approach, sources of data and plan for data presentation and analysis.

Chapter Four

An Institutional Overview of CIAA

4.1 Introduction

Corruption is expanding and has been an issue of concern and challenge not only in a particular country but almost in all country around the world and is increasing in the form of a trans-border crime. Because of corruption many serious problems such as drug trafficking, money laundering, arms smuggling and terrorism is rising. Therefore, with the aim of controlling corruption anti-corruption agencies are formed with the sole responsibility of reducing corruption. In case of Nepal, CIAA (Commission for the investigation of Abuse of Authority) is working as an anti-corruption agency. It is an apex constitutional body working to curb corruption in the country. The constitution of Nepal has given authority to CIAA to investigate cases against the persons holding any public office including their associates who are found in the abuse of authority. It is a unique anti-corruption agency in South Asia which is playing the role of investigator, prosecutor and ombudsman. With system-based approach it aims to reduce corruption related issues at national level. It not only focuses on detection and punishment of corrupt practices but also focuses on social, cultural and institutional reform. CIAA carry out preventive, promotional and punitive (3Ps) measures to control corruption while performing its duties and responsibilities. It is guided by the principle of rule of law, human rights, fairness and impartiality promoting good governance in the country.

Constitution of Nepal, 2015 has made provision for the establishment of CIAA with its functions, duties and responsibilities. Based on the provisions mentioned in the constitution commission has to carry out its responsibility of tracking, tracing and controlling corruption which will also contribute to strengthen the good governance. Therefore, commission itself has initiated number of strategies and approaches to fulfill its duty to identify the corrupt practices in the public sector and carry out further investigation and inquiry. Also, to promote fairness and integrity of the staffs of the commission while carrying out their duties the codes of conduct of staffs are

implemented by the commission. Constitution also has made a provision which requires CIAA to submit its annual report mentioning all the activities of a year to the president which will be presented to the parliament through prime-minister and discussion will be held in legislature parliament.

4.2 Development of CIAA

Nepal enacted the first anti-corruption law in 1952 after which “Nepal Corruption Eradication Act 1952 was formulated and “Corruption Eradication Department” was established with the aim of reducing corruption (Acharya, 2015). The same Anti-Corruption Law was later replaced by a new law in 1956 and 1961 which led to the establishment of "Special Police Department" which was responsible for looking at the corrupt practices ongoing in the country. The second amendment of the Constitution of Nepal 1962 leads to the establishment of the Commission for the prevention of Abuse of authority (CPAA) in 1975 (Acharya, 2015). After the democratic change in 1991, Constitution of the Kingdom of Nepal 1990 replaces CPAA with CIAA (Commission for the investigation of abuse of authority) (Acharya, 2015). Therefore, the current anti-corruption agency was established on 11th February 1991 after which the CIAA Act 1991 was introduced. Then a regulation was promulgated which explain the procedural details for implementing the provisions of the act. The act and the regulation define the scope, functions and procedures to carry out the investigation and prosecution in details. Also, Commission has initiated a number of approaches and strategies for identifying corrupt practices of the public sector since its establishment. Altogether 8 regional office of CIAA is working at a different part of the country (CIAA Website). Article 239 of the Constitution of Nepal 2015 describes the Rights, duties, and responsibilities of CIAA.

4.3 Organizational Structure of CIAA

The organizational structure of CIAA consists of one chief-commissioner at the topmost level and four commissioners appointed as per constitutional provision. Altogether it has 12 divisions to carry out its day to day function and 8 regional offices which are as mentioned below:

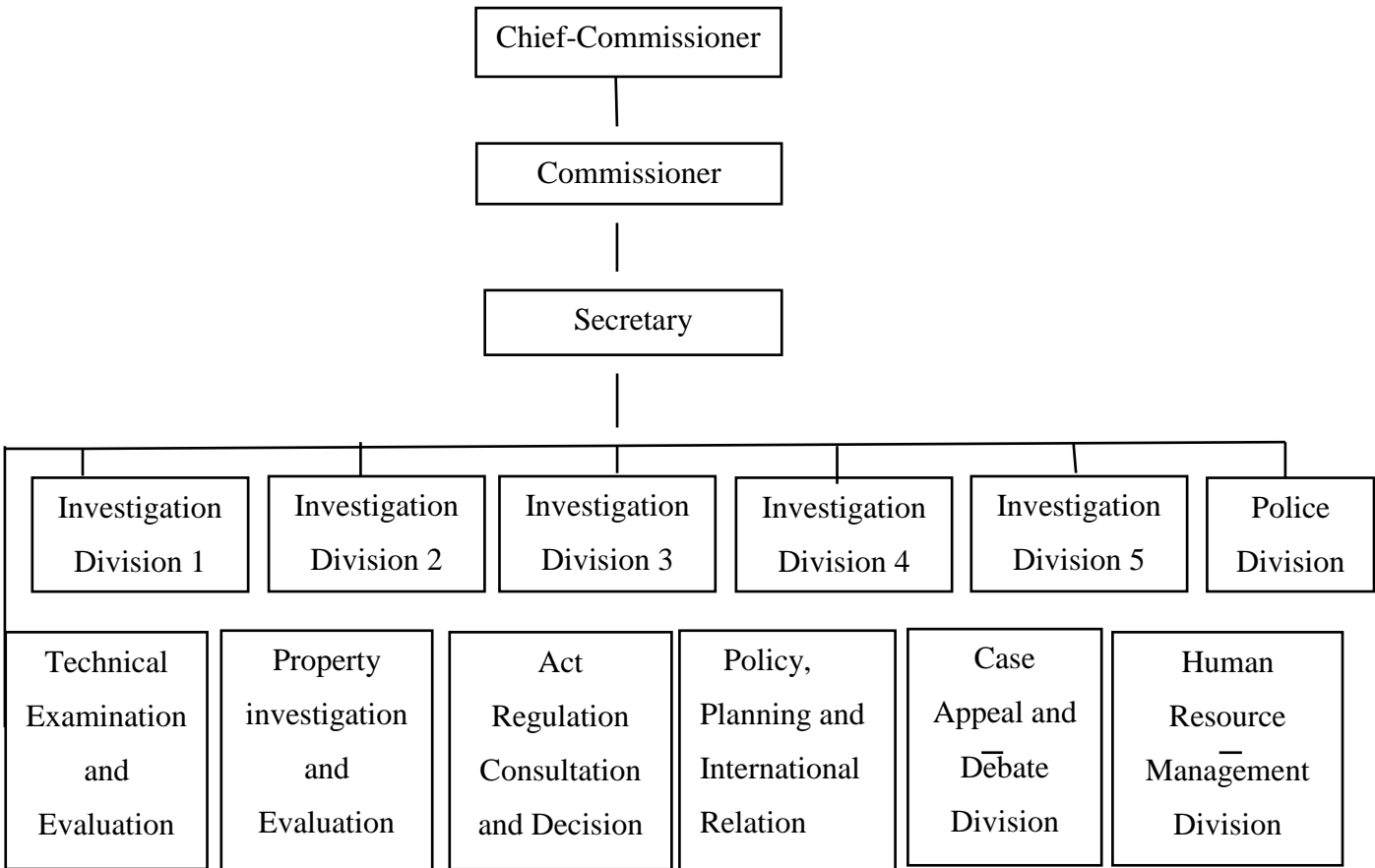


Figure 1.2 Organizational Structure of CIAA

Source: CIAA Website <http://ciaa.gov.np/>,2019

Table 1.9 Regional Offices of CIAA

S.N.	Regional Office Name	Area
1	Office of Commission for the Investigation of Abuse of Authority	Itahari
2	Office of Commission for the Investigation of Abuse of Authority	Bardibas
3	Office of Commission for the Investigation of Abuse of Authority	Hetauda
4	Office of Commission for the Investigation of Abuse of Authority	Pokhara
5	Office of Commission for the Investigation of Abuse of Authority	Butwal
6	Office of Commission for the Investigation of Abuse of Authority	Butwal
7	Office of Commission for the Investigation of Abuse of Authority	Surkhet
8	Office of Commission for the Investigation of Abuse of Authority	Kanchanpur

Source: CIAA Website <http://ciaa.gov.np/>,2019

4.4 Principal Laws Guiding CIAA

- Constitution of Nepal ,2015
- Commission for the Investigation of Abuse of Authority Act ,1991
- Anti-Corruption Act, 2002
- Commission for the Investigation of Abuse of Authority Rules, 2002
- Commission for the Investigation of Abuse of Authority Procedures, 2013
- Investigation Guidelines
- Codes of Conduct for officials and staffs of CIAA, 2016

4.5 Constitutional Provision for CIAA

In part 23 Article 238 of the Constitution of Nepal 2015, it has made provision for the constitutional body CIAA and in Article 239 its role and responsibilities are explained which are as follows (Constitution of Nepal, 2015):

- Commission for the investigation of Abuse of Authority (CIAA) as a constitutional body with the one chief-commissioners and four commissioners where chief-commissioner will be the chairperson of the Commission for the Investigation of Abuse of Authority.
- The appointment of the chief-commissioners and commissioners is done by the president on the recommendation of constitutional council.
- The chief-commissioners and commissioners will serve for the period of six years since the date of appointment.
- The office of the Chief-Commissioner or commissioners will be vacant if any of the following circumstances comes:
 - If he/she write the resignation letter to the President
 - If he/she is in the age of sixty-five
 - If motion of impeachment is passed against him/her
 - If he/she is removed from the office by the president on the recommendation of constitutional council because of his/her inability to hold the office and discharge the functions due to mental or physical illness.
 - If he/she dies

- If a person is appointed as the chief-commissioner and commissioners of the commission, then he/she will not be eligible for reappointment. But, in case of commissioner he/she may be appointed as a chief-commissioner of the commission and the term as a commissioner will also be counted after appointment as chief-commissioner.
- For a person to be eligible to be appointed as a chief-commissioner or a commissioner of the Commission for the Investigation of Abuse of Authority he/she must possess the following qualification:
 - bachelor's degree from recognized University
 - during a time of appointment not being a member of any political party
 - having at least 20 years of experience in the field of revenue, accounting, research or development, law, engineering and a distinguished person
 - attained an age of forty-five
 - having a high moral character
- The conditions of the service and the remuneration of the chief-commissioner and the commissioners will be provided in the Federal law. In case when a state of emergency is declared because of the economic disarrays in that period this provision may not be applicable.
- A person who is once appointed as the Chief-commissioner or the Commissioner of the commission then the person will not be eligible for the appointed to other government services.

Functions, duties and powers of the Commission for the Investigation of Abuse of Authority

- In accordance to law, the Commission for the Investigation of Abuse of Authority may conduct investigations upon any person holding public office who abuse the authority or conduct an act which is found to be corruption. This will not be applicable to those officials whom this constitution has separately provide such actions against them and to those persons to whom separate provision is provided by the law.

- In a case of a person who can be removed from the office by passing motion of impeachment in such case, the judge who can be removed by the decision of Judicial council and the person who are liable for action under the Army Act, the commission may conduct investigations after they have been removed from the office in accordance to federal law.
- If the Commission for the Investigation of Abuse of Authority finds after the investigation conducted upon the person holding public office has committed an act which is corruption as defined by law then the commission may file case against that person and the other persons who are involved in that offense in the court according to the law.
- If the act or action done or taken by a person holding a public offices found to be of such nature which does not falls under the jurisdiction of Commission for the Investigation of Authority in such case the commission may write to the concerned department or officials to take necessary action against him/her.
- As per this provision the Commission for the Abuse of Authority may delegate its duties, functions, powers to the chief-commissioners and commissioner or any employee of the Government of Nepal for the conduct of investigation or filing the cases with the subject and specified conditions.
- Other duties, functions, rules of procedure of commission and power of the Commission of Investigation of Authority will be provided in the federal law.

4.6 CIAA Act, 2048

Some of the major provisions made in the act are as follows.

- For an abuse of authority CIAA may conduct investigations/inquiries, file a case and take action against any person holding a public office.
- CIAA may write to concerned authority to take departmental action against the person who is found to have committed an improper act.

- This act empowers CIAA to keep the person whose act is defined as a corruption in detention.
- It gives limited power to CIAA as it cannot look after the improper conduct and corruption of constitutional bodies member, sitting judges and Nepal Army personnel.
- CIAA cannot dictate on the departmental action which the concerned authority need to give to the person committing corrupt act.
- The person against whom the case has been filed will be suspended automatically until the case is disposed or for the period of detention.
- As per this act CIAA may freeze the account of the accused
- CIAA may ban the passport of the accused or keep it on hold
- CIAA may put an order to leave a place to the accused
- This act empowers CIAA to give suggestions on decisions, laws and acts which it feels impractical and defective on procedures and process of public agencies.

Chapter Five

Data Presentation and Analysis

This chapter aims to present and analyze the data that are collected for this study. The main objective of the study is to assess the factors influencing the institutional capacity of CIAA. For this, qualitative method was used with the sample size of 13 respondents to conduct the research. To achieve the research objective in-depth interview of the respondent and document analysis was done. 7 respondents were CIAA officials and 6 other respondents include civil society members, legal expert, media person and ex-civil servant. The findings of the dependent variable and the independent variable were discussed sequentially. Also, critical analysis is made to find out the relation between the dependent and independent variable. Therefore, this chapter put forward the data obtained and findings generated from the study which provides the answer to the research questions.

5.2. Dependent Variable

Corruption has been a major problem in a developing country like Nepal. To reduce corruption anti-corruption agencies are formed as an independent government agency with the sole responsibility to work against corruption. Therefore, a government agency which aims to reduce corruption in the country should be institutionally capable to carry out its functions. To get to know about the institutional capacity of CIAA, an analysis is made based on the collected data from various sources with an analytical framework. Accordingly, it examines the dependent variable and independent variables. In this study, the dependent variable is "Institutional Capacity of CIAA". To judge the institutional capacity four indicators are used which includes:

- Number of Cases Investigated by CIAA: This refers to the number of cases investigated by CIAA out of the total complaints filed in a year. This data shows the percentage of the cases resolved by CIAAA in a year and a trend of corruption complaints received by CIAA.

- Average Conviction Rate: Average conviction rate is the percentage of the successful court cases that CIAA filed to the respective court. The higher the conviction rate higher will be the institutional capacity of CIAA.
- Number of sting operations: Sting operation is deceptive operation which is designed to catch a person committing corruption related acts. The higher number of sting operations carried out by CIAA reflects that it is actively involved in identifying and investigating corruption related cases.
- Preventive and Promotional activities: This involves the different activities carried out by CIAA with the aim of reducing corruption.

5.2.1. No. of Cases Investigated by CIAA

CIAA is the apex constitutional body to control corruption in the country. CIAA is empowered to investigate the cases against the person holding any public office and those who are involved in the abuse of authority by the law. Every year CIAA receives numbers of complaints through different sources. As CIAA has eight regional offices with one central office complaints are registered in all those offices. After the complaints have been registered in CIAA Offices it goes through preliminary investigation and according to which further investigation takes place. Here, in the table below the number of cases registered and investigated by CIAA in the last five years are presented from 2013/14 to 2017/2018.

Table: 1.10: No. of cases investigated by CIAA in the last five years

Year	Total complaint received (Last year + New cases)	Re-Solved /Percentage	Disposition after a preliminary investigation	Detail investigation	Solved in different ways
2013-2014	4626+17876= 22602	12,892 (57%)	6,185	890	5,817
2014-2015	9710+21503= 31213	21,648 (69%)	12084	1,244	8320

2015-2016	9565+15126= 24691	16,694 (67%)	10,606	428	5660
2016-2017	7876+11740= 19580	11,860 (60.5%)	7,064	306	4490
2017-2018	7719+11769= 19488	12,400 (63%)	6720	546	5134
Average		63.3%			

Source: Annual report of CIAA, 2019

From the table above we can see that the number of complaints received in the year 2013-2014 was 22,602 out of which 12,892 were resolved which was 57% of the total complain received. Likewise, in the year 2014-2015 the percentage of resolved cases was 69%, 67% in the year 2015-2016, 60.5% in the year 2016-2017 and 63% in the year 2017-2018. Therefore, the average percentage of the cases resolved in the last five years is 63.3%. This data shows that CIAA is not fully capable to resolve all the complaints that they receive within a year.

But, according to the spokesperson of CIAA "All the complaints which are registered in our offices goes through the preliminary investigation process but most of such complaints which commission receives are related to petty corruption issues and some of the cases which people register reflects that it is with the intention to take revenge. So, all the cases that we received are not genuine corruption complaints but those with evidence and proved to be serious cases goes through further investigation." He also mentioned that it has been in the people's perception CIAA is targeting small fish but not the big fish but in reality the grand corruption cases are settled among those who are involved within it. CIAA do not receive any complaint against such cases and CIAA to investigate the influential person they need to have an evidence and without having an evidence and proof they cannot do investigation. In some cases, circumstances show that people who hold public offices or retired from public responsibilities seem to be corrupt. However, no complaints against them or in some cases, owing the lack of enough evidence to prove their involvement, CIAA has not been able to take action against them".

His views reflect that not all the complaints that commission receives are serious complaints related to corruption so looking at the number of complaints received and resolved it's difficult to judge the institutional capacity of CIAA. Also, both petty and grand corruptions exist and for both corruptions to be detected and investigated, whistle blowers are necessary. In the absence of whistle blowers, it is most likely that petty corruption is more detected while grand corruptions remain untracked. In a country where there is systemic corruption, whistle blowing is of now use as everybody perceives that everybody is corrupt. In such a system CIAA may have limited capacity to go after grand corruption.

Also, when we see the number of registered new cases in the different years the trend shows that it is declining. In the year 2013-2014, 17,876 new cases were registered and 11,769 new cases were registered in the year 2017-2018 which is 34.2 % less than in the year 2013-2014. It reflects that corruption complaints are declining but whether it is because of the low level of corruption or because of other reasons it needs to be identified and analyzed.

5.2.2 Average Conviction Rate

The figure below shows the average conviction rate of CIAA in last five years:

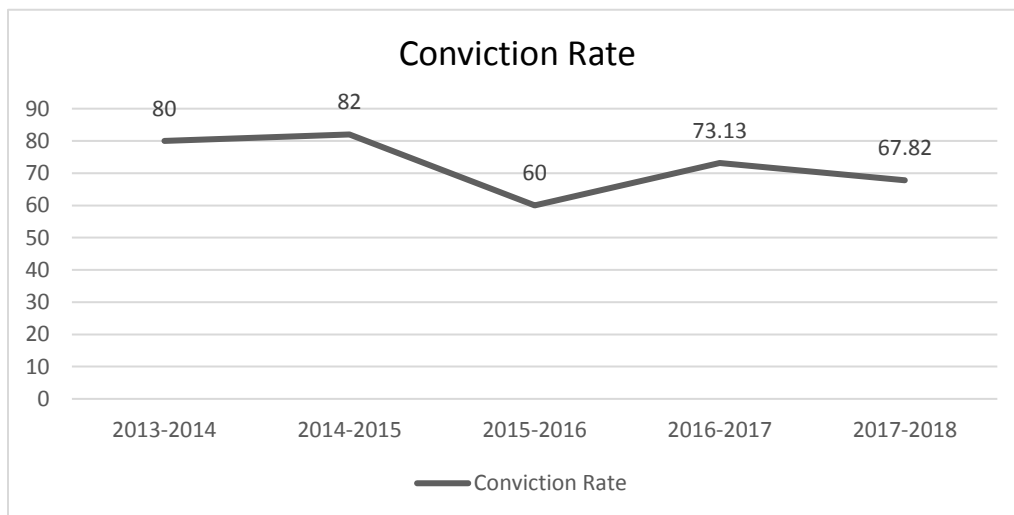


Figure 1.3 Average Conviction Rate

Source: Annual report of CIAA, 2019

From the figure above we can see that the average conviction rate of the last five years is 75.59%. When the cases are filed by the commission to the respective court after carrying out detail investigation upon it after which if the court proves it right then the average rate of such successful cases refers to conviction rate. The more the conviction rate the more effective is the investigation carried out by CIAA. Looking at the data of last five years it shows that conviction rate is around 60-80% which is not the worst result. This indicator reflects that CIAA performance is at satisfactory level.

5.2.3 No. of the Sting Operations

The following table shows the number of sting operation carried out by CIAA in different years.

Table 1.11 No. of sting operations

Year	No. of sting operation	Person Involved
2016-2017	64	-
2017-2018	97	154

Source: Annual report of CIAA, 2019

Sting operation is deceptive operation which is designed to catch a person committing corruption related acts. CIAA is found to be active to carry out such operations in recent years. The table above shows the number of sting operations carried out by CIAA in different years. The data was not available of past years but in the year 2016-2017 such operations was 64 in number and in the year 2017-2018 it was 97 in number where 154 persons were involved. In recent days, the news about such operations carried out by CIAA is published in the newspapers. The number of stings operation carried out by CIAA is increasing in number but still this is not enough to reach to those who commit corrupt act in different public offices located at different regions. This might be because it lacks enough human and financial resources to carry out such operations. Thus, CIAA needs to be empowered with resources to carry out such operations.

5.2.4 Preventive and Promotional Activities

In the CIAA Act 1992 section 35(b) sub-sections (2) it has been mentioned that the commission needs to carry out promotional activities and identify preventive measures to control corruption and abuse of authority. Thus, in line with this provision commission is performing various preventive and promotional activities.

The commission has been undertaking various activities under preventive strategy including identification of the cause of corruption, areas vulnerable to corruption, policy advice to government for reducing corruption. Also, it shows its engagement with the other various agencies working towards reducing corruption through coordination and monitoring. Likewise, CIAA has focused on developing manuals, directives for public institutions to guide their performance and simplify their service delivery.

Also to ensure the effective performance of public institutions, co-ordination meetings have been organized with the involvement of responsible officials of concerned institutions. In the presence of Hon'ble chief commissioner and commissioners of the commission, discussions have been held time to time where the problems, challenges, and remedies relating to the quality of services by various institutions are discussed which is found to have been fruitful for enhancing service delivery.

Likewise, under the promotional programs various discussions, interactions, seminars have been conducted on the issues related to corruption control. In such programs, civil society members, legal practitioners, media persons, and renowned personalities are involved. The community education program has also been organized by the commissions since 2007/2008 for raising awareness against corruption. Moreover, it has been creating awareness among the people by preparing documentary, creating awareness through newspapers and social media and publishing the booklets and articles containing the information on corruption-related issues. It has also been celebrating the international and national day against corruption by organizing various programs. Also, the commission is rewarding the person or organization who has greatly contributed to combating corruption in the country.

Such major preventive and promotional activities carried out by CIAA in the last four years are presented in the table below:

Table 1.12 Details of Preventive and Promotional Activities

Year	Preventive and Promotional Activities
2014-2015	<ul style="list-style-type: none"> • 8 focal point meetings with the officials of different departments and ministries where the remedies for corruption were discussed • Community Education program with the involvement of 2820 student and teachers • 63 interaction and discussion programs organized at different districts with the involvement of 5129 participants
2015-2016	<ul style="list-style-type: none"> • Discussion held among chief-commissioners, commissioners, chief-secretary of GON, and secretary regarding the present situation, problems, challenges of the services provides from different government bodies. • Community Education program for raising awareness on corruption-related issues with the involvement of 9021 students and teachers • Information dissemination through media source against corruption
2016-2017	<ul style="list-style-type: none"> • organized 34 coordinative meetings with the different ministry and department officers regarding corruption reduction and provide necessary suggestions. • Informative materials regarding corruption control and good governance were circulated through media for raising awareness • 73 times interactive sessions were conducted where 7601 participants were made aware of corruption issues which include civil society members, government officials, and media person
2017-2018	<ul style="list-style-type: none"> • 119 community education programs were conducted at different school with the involvement of 11,990 students and teachers

	<ul style="list-style-type: none"> • 87 interaction program with concerned people/organization with the involvement of 8699 individuals • Orientation regarding corruption control and good governance is given to newly elected local government officials in all 753 local government units in coordination with Ministry of federal affairs and general administration.
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Source: Annual report of CIAA, 2019

Reviewing the preventive and promotional activities carried out by CIAA it reflects that CIAA is not only focused on investigation but also involved in promoting awareness and carrying out various preventive measures to combat corruption. But, those activities which CIAA carried out as a promotional and preventive measures was found to be limited in some places and in a small group of people. This might be because of the limited capacity of CIAA; it is not able to expand its area to carry such activities. To determine its institutional capacity based on these activities it is necessary to know its effect on the level of corruption. But, CIAA is not able to measure the outcome from such activities because of which it is difficult to know whether such programs have been effective or not to reduce corruption. Also, based on this CIAA can increase its preventive and promotional roles.

Therefore, analyzing the dependent variable “Institutional Capacity of CIAA” from the data obtained through interviews and document analysis it was found that CIAA is more involved in solving petty corruption issues but not the grand corruption issues. Whereas the number of sting operations is increasing but promotional and preventive activities carried out by CIAA was found to be limited in number though the conviction rate is at satisfactory level.

5.3 Independent Variables

In this study, there are altogether three Independent Variables which are Independence of CIAA, Human and Financial Resources and Detection and Investigation Process. Each variable has different indicators to measure which are discussed below with the data generated from primary and secondary sources. Data from the primary sources was

collected from the interview which was an attempt to assess the current institutional context of CIAA and to generate different perspective from different stakeholders which includes legal experts, civil society members. Secondary source of data was generated from document analysis and other online materials. The views of the respondents along with the data generated from the document analysis and interview for each variable is discussed below:

5.3.1 Independence of CIAA

The operation of Anti-Corruption Agency(ACA) is based on the legal framework according to which its authority, functions, and jurisdiction are defined. They belong outside of the government agency and is a permanent body. The commissioners of ACA who hold the highest position in the commission are well protected by law. But, in some ACA's the process of appointment of ACA's commissioner is not transparent and inconsistent which affects the independence of ACA. For an ACA to work independently it should be structurally, operationally and legally independent. In this regard, the independence of ACA is assured by the fair appointment of the commissioners and no interference of any political forces to carry out its functions and duties. Independence of ACA is necessary to make ACA institutionally capable to carry out its functions and responsibility. In the case of CIAA, the following information was generated from primary and secondary sources regarding its Independence.

a. Legal Independence of CIAA

From the interview of 13 respondents where 7 were CIAA officials and 6 were Key Informants, 10 respondents (77%) were fully satisfied with the legal independence of CIAA and 3 respondents (23 %) were partially satisfied with the legal independence of CIAA. Satisfied respondents agreed that it has enough legal power to work independently but some changes in laws are necessary to make it institutionally more capable. Regarding legal independence, CIAA is an independent co-operation which has its mandate and is working according to the provision made in the constitution. Its roles, functions and duties are mentioned in the constitution and is guided by the following laws:

- Constitution of Nepal, 2015
- Commission for the Investigation of Abuse of Authority Act, 1991
- Anti-Corruption Act, 2002
- Commission for the Investigation of Abuse of Authority Rules, 2002
- Commission for the Investigation of Abuse of Authority Procedures, 2013
- Investigation Guidelines
- Codes of Conduct for officials and staffs of CIAA, 2016

In the Constitution of Nepal 2015, it is mentioned that "Commission for the Investigation of Abuse of Authority may conduct investigations upon any person holding public office who abuse the authority or conduct an act which is found to be corruption. This will not apply to those officials whom this constitution has separately provided such actions against them and to those persons to whom separate provision is provided by the law"

In the CIAA Act, 1991 it is mentioned that "CIAA may file cases, conduct investigation or take any action against the person who holds the public post and found of abusing powers ". Also, it is mentioned that CIAA shall not take any action against any member in the matter related to the decisions taken at any committee or any House of parliament meetings or business and also CIAA shall not take any action over any policy decision taken by a committee or a council of minister and a judicial actions of a court."

The above provisions which I discussed are mentioned in the CIAA Act and Laws. Reviewing those provisions, it is clear that CIAA is legally independent and it has its mandate. But, there are some laws which have been changed in recent times. In the Interim constitution of Nepal 2006, it was mentioned that "the commission can conduct investigations and inquiries of abuse of authority committed by a person holding any public office through corruption or improper conduct." Here, it was mentioned that CIAA can investigate cases of improper conduct. But, in the present constitution of Nepal, 2015 there is no provision for CIAA to investigate the cases of improper conduct and has provision to investigate the corruption cases only. Since the implementation of the present constitution, the cases of improper conduct do not fall under the jurisdiction of

CIAA. Because of this provision many of the acts conducted by public servants which involves abuse of authority are not being investigated which contribute to increase the number of people committing such cases in the future. As mentioned in the CIAA Act 1991, if a person conducts any of the action below it is defined as improper action:

- If a person does anything which he/she does not possess any power to do and refuse to do anything which falls under his/her jurisdiction
- While issuing an order or taking any decision if a person does not comply it with the working procedures which are mandatory
- If a person used his power in contravention to the appropriate laws, order or decision
- If a person is found to use his discretionary power in an arbitrary manner
- If a person made an unauthorized obstruction in the work of other officials, employees or office and make a person to do unauthorized acts by giving pressure on those officials, employees or office
- If a person shifts his responsibility to other office or officials which he was given responsibility to do
- If a person failed to discharge duty pertaining to his post which he is given to discharge in accordance with the nature of the post
- If a person got his work done by giving pressure to an employee who is subordinate to him and who is under his influence
- If a person has abused the privileges, immunity, and facilities acquired by his post

The above-mentioned actions are defined as improper action by law but in the present context, CIAA do not have provision to investigate and do inquiry of such cases. Out of the 13 respondents, 5 respondents see the need to make provision in the constitution to investigate improper conduct to combat corruption.

From the Constitution and the Act, it reflects that CIAA do not possess the authority to do investigation upon the sitting judges, army personnel and the constitutional body members. This limits its authority to carry investigations of those people either he/she is

found to have committed such act which is defined by law as corruption. Also, it cannot take action against any decisions made in the parliament and the policy decision taken by the council of ministers. This limits the independence of CIAA to carry out the investigation of such cases because of which corruption at higher and policy level persist. As most of the policy decision is taken by the council of ministers and sometimes such decisions are taken in favor of their interest or party interest because of which policy outcome is negligible and is not according to the demand and need of people. Huge resource gets wasted if such decisions are implemented by the government. So, it is necessary that CIAA should be given authority to investigate such policy decisions and make it more capable.

As stated by Director of Transparency International (TI) Nepal, "CIAA is an independent body as written in the constitution. Though it has enough legal power to carry out its functions and responsibilities independently still it is not effective. It is working according to the will of the government. To make it independent appointment of the commissioner should be without political interference."

Hari Bahadur Thapa who is the Editor-in-chief of Annapurna Post told that "CIAA have enough legal power and it is legally strong but some laws need to be changed to make it more capable and more effective. It should have provision to investigate and do inquiry of policy corruption which occurs among the high-level bureaucrats and ministers. Such change is necessary in-laws so that the policy corruption cases could be investigated before its implementation.

Investigation officer of CIAA stated that "Some of our constitutional provision regarding Corruption Act is limited and it must be cleared out to make it fully functional. It should include improper conduct under the jurisdiction of CIAA."

As stated by the ex-commissioner of CIAA "CIAA possess enough laws to carry out its function independently but institutional strengthening is required and needs to bring public utility institutions under its jurisdiction to combat corruption."

While accumulating the views of the respondents it clearly reflects that CIAA is legally independent with enough legal power to work independently.

b. ACA's mandate

CIAA Act, 1991 was reviewed to know about the ACA mandate. It is mentioned in the Act that commission can carry out preventive, promotional and punitive (3Ps) measures to control corruption while performing its duties and responsibilities. In the Act, it is written that commission may maintain coordination with the national and international organization with the main purpose to maintain the mutual co-operation or enhance relation and preventing corruption in the country. Therefore, CIAA has authority to carry out the preventive and promotional activities to reduce corruption in the country.

Out of 13 respondents, 10 respondents told that CIAA should focus on all three measures which are preventive, promotional and punitive to control corruption in the country. If CIAA focuses on all three measures, then it helps to reduce future corruption by making people aware of it and implementing different approaches and strategies in reducing corruption. Likewise, 3 respondents told that CIAA should focus on investigation only as it is only specialized government body to carry out an investigation of corruption cases. According to them, other agencies who are working to promote good governance and reduce corruption is conducting preventive and promotional measures so it will be better if CIAA keep its focus on the investigation.

From above it is clear that CIAA possess the responsibility to carry out preventive, promotional and punitive measures which make it more capable and effective to reduce corruption in the country rather than by putting focus only on the investigation. This shows that it has strong mandate.

c. Appointment of CIAA Commissioners

The provision regarding the appointment of the commissioner of CIAA is written in the Part 21 article 238 clause (3) of Constitution of Nepal 2015. As per this provision, the

appointment of the commissioners and chief-commissioner is done by the president on the recommendation of the constitutional council.

The constitutional council which recommends the name of the chief-commissioner and commissioners comprises of the following members:

- Prime Minister- Chairperson
- Chief Justice- Member
- Speaker of the House of Representative- Member
- Chairperson of the National Assembly-Member
- Leader of the opposition party in the House of Representatives-Member
- Deputy speaker of the House of Representatives-Member

The council consists of 6 members altogether, where the prime minister is the chairperson of the council. As the prime minister is the chairperson of the council there is a chance that prime minister gives priority or favor to the person from his party to be appointed as the chief- commissioner and commissioners. In such case different political party members who are the member of the council could interfere in the appointment process by giving favor to their own people regardless of the qualifications they possess. In the past, a few years back CIAA faces the huge challenge because of the vacant post of the chief-commissioner and commissioners. Due to lack of leadership CIAA could not work effectively. This was happened because of the disagreement between the political parties for the appointment of the commissioners. This shows that there exists political interference during the appointment process of Commissioners.

According to the views of the respondent from the interview, it was found that 53% of the respondents agreed that the appointment process of chief-commissioners and commissioner is fair and all those were the CIAA Officials. And 6 key Informants told that there exists a political interference during the appointment of commissioner because of which CIAA lacks good leadership and could not work effectively. It's surprising to know that all the respondent who were CIAA officials told that the appointment process is fair,

this might be because they fear to talk about their seniors or they fear that the information could go outside and they may be in trouble.

Also, in the Constitution of Nepal 2015, there it is mentioned about the qualification required for the commissioners and chief-commissioner to be eligible for the post which are as follows:

- bachelor's degree from recognized University
- during a time of appointment not being a member of any political party
- having at least 20 years of experience in the field of revenue, accounting, research or development, law, engineering, and a distinguished person
- attained an age of forty-five
- having a high moral character

Reviewing the appointment process of CIAA commissioner and chief-commissioners as written in the constitution it shows that there is a huge chance of political interference during the appointment process. Though the criteria for a person to hold the post of chief-commissioner and commissioner is clearly mentioned in the constitution because of the political interference, person lacking the ability to carry out the responsibility get appointed from the favor of politicians which affect the institutional performance of CIAA. This reflects that CIAA is not operationally independent because of political interference during the appointment of commissioners.

d. Commissioner's terms of office and removal

As mentioned in the constitution the tenure of the chief-commissioners and commissioners is six years since the date of appointment. But, the office of the Chief-Commissioner or commissioners will be vacant if any of the following circumstances comes:

- If he/she write the resignation letter to the President
- If he/she is in the age of sixty-five
- If the motion of impeachment is passed against him/her. One-fourth of the members of House of Representative may move a motion of impeachment against

the officials of the constitutional body if he/she fails to perform his/her duty because of misconduct or incompetence to discharge the duty honestly or serious violation of constitution, law, and code of conduct.

- If he/she is removed from the office by the president on the recommendation of the constitutional council because of his/her inability to hold the office and discharge the functions due to mental or physical illness.
- If he/she dies

These provisions shows that tenure and the removal of commissioner and chief-commissioner is fixed. In such case, the commission can work effectively when the tenure of the commissioners is fixed. They can set a goal, plans, and strategies to achieve within the given time frame which contribute to the effective functioning of the organization.

Furthermore, from the interviews taken when the respondents were asked whether there is political interference during the investigation process or not 92% of respondent replied that there is no such political interference during the investigation process. CIAA can conduct an investigation upon those whom it finds necessary following the procedure is written in the act and laws.

Independence of CIAA as seen by key informants and CIAA officials interviewed in the study in term of legal frameworks is that CIAA is fully independent to address corruption with other relevant laws which means it is legally independent. But, regarding the appointment of the commissioner's key informant's views shows that there is a huge political interference during the appointment process which shows that it is not operationally independent.

5.3.2 Human and Financial Resources

Human and Financial resources are an important factor which determines the performance of the CIAA. To carry out the day to day function of the commission it needs adequate human and financial resources. The human resource includes the number of employee working at the commission at various levels whereas financial resource includes the budget allocated by the government for the implementation of their work.

Anti-corruption agencies which receive an adequate financial allocation from government and which possess qualified human resource is capable of performing its functions and duties effectively.

To assess the human and financial resource of the CIAA primary data was collected through the interview among 7 CIAA Officials and 6 Key Informants and secondary data was collected through the document analysis. With the data generated from these sources the current status of human and financial resources of CIAA is analyzed as below based on its indicator:

a. CIAA selection criteria for personnel

It is mentioned in chapter 6 21 (a) of CIAA Act, 1991 that the employee arrangement for the commission will be made by the Nepal Government for the operation of the work of the commission. Also, in part 23, article 243 of the Constitution of Nepal, it has been mentioned that it is the duty of the public service commission to conduct the examination and select the suitable candidate to be appointed to the various position of the civil service. Here, civil service includes all the positions in the service of the government of Nepal. Public service commission has its criteria for the selection of the employee for different classes which is clearly mentioned in the civil service act and the selection process of the employees is made transparent and based on meritocracy.

Likewise, in Chapter 2 of Civil Service Act, 1993 it is clearly mentioned that ministry of General Administration will act as a central body operation, constitution and conditions of the service and operation and management of the civil employee. The appointment to the post required to be fulfilled by internal competition or open competition will be made on the recommendation of the Public Service Commission. Also, regarding the position, it is mentioned in the same act that there will be administrative and technical post in different class of the civil service. In the case of CIAA, there is a post for administrative, technical and police class.

As per the Civil Service Act 1993, there are altogether two different classes in Civil Service which are Gazetted and Non-Gazetted. In Gazetted class, there are four sub-classes which

are special, first, second and third class. Likewise, in Non-Gazetted class, there are altogether five different sub-classes. The minimum qualification required for different post in a different class is written in the Act. The post is fulfilled either by the open competition or by the promotion. Also, to make the civil service inclusive 40% of the post is fulfilled having separate competition including women, janajati, madhesi dalit, disabled and backward area.

The minimum qualification for the post of Gazetted first class and the second class is Master's degree in the concerned subject and 5yrs of experience in an officer level post in any government service or international institution for the Gazetted second class and seven years of experience for the gazette first class. For the appointment of the gazetted post, the government of Nepal makes an appointment by publishing in the Nepal Gazette.

The table below shows the different classes of employees working at the CIAA Office with their post.

Table 1.13 Employees class and post at CIAA Office

Class	Post
Gazetted Class	
Special Class	Secretary
First Class	Joint-secretary
Second Class	Under-Secretary
Third Class	Section Officer
Non-Gazetted Class	
First Class	Senior Assistant
Section Class	Assistant

Source: Civil service Act, 1993, 2019

Therefore, the selection of the employee for the Commission is done by the Public Service Commission which conducts examination for every post of the civil service. As per the

qualification determined by the public service commission, written examination is conducted at first and those who are selected in the written examination are called for an interview and based on meritocracy result of selected candidate is published by the public service commission. The selected candidates are then transferred to different departments, ministries and also to CIAA to fulfill the vacant post. By this process employees are appointed in a different post of CIAA.

The above information about the selection criteria of the employee was generated from the review of the existing legal framework. The respondents were also asked about whether the selection process of the employees is transparent or not. In this regard, respondent's view shows that the selection process of an employee is transparent and based on meritocracy as the examination is conducted by the public service commissions. It reflects that employees who are working at CIAA came through the competitive exam having a required qualification to hold the respective post.

b. Training of the CIAA personnel

The duty and responsibility of the CIAA officials are different from those of other government agencies. They are involved in carrying out investigations and inquires of the corruption-related cases in the country. For this, having a specific training to carry out the investigation is necessary for the employee for a better outcome. The tables below show the number of employees working at the CIAA including its head office and regional offices and the number of training program held at the CIAA office in different years.

Table 1.14 No. of employees working at the CIAA Office

No. of employee	Central Office	Regional Offices
820	518	302

Source: Annual report of CIAA, 2019

Table 1.15 No. of Training received by the employees

Year	No. of foreign training (Total employee involved)	No. of Investigation training at CIAA(Total employees)
2014-2015	11(83)	14(339)
2015-2016	26(151)	9 (300)
2016-2017	13(133)	10(300)
2017-2018	17(121)	6 (179)

Source: Annual report of CIAA, 2019

The above table reflects that the number of employees working at the CIAA Office is 820 out of which 518 are working at the central office and 302 are working at regional offices. Training is necessary for the employees to make them competitive and effective in their work. Thus, the number of training is being organized by the CIAA related to the investigation, sting-operation, capacity development and so on. Trainings are organized by the CIAA itself during the different time periods and also the employees are sent to a foreign country. Such trainings are expected to help the employee to uplift their performance level. From the table 1.15 we can see that in the year 2014-2015, 11 training programs were conducted in a different country where 83 employees participated. In that year the training was held in Beijing, South Korea, Malaysia where Malaysian Anti-Corruption Academy(MACA) conducted corruption and Financial Methodological Training Workshop for CIAA Nepal Officers where 33 employees participated. Another training program which was Executive Certificate Course for strategic Management of Anti-Corruption was held in Malaysia where two employees of CIAA participated. Likewise, the central office of CIAA conducted 14 training programs where 339 employees of central and regional offices participated. Those training programs were related to the quality investigation and prosecution, computer skills development and others.

Every year CIAA sent its employees to participate in foreign training programs and it also conducts such program inviting the experts of related field for the employees. Every year around 122 employees receive foreign training in average looking at the data for the last

four years. Likewise, every year around 258 employees receives training organized by CIAA on average looking at the data of the last four years. Some of the training programs which was organized by CIAA and other organization for the CIAA Officials are listed below:

Table 1.16 Training Programs received by employees in a Foreign Country

S.N	Name of training Programs	Date
1.	Capacity Building Program for the Nepal CIAA	27 January to 16 February 2016 in Italy
2.	Course on Document Examination for Criminal Justice Functionaries	9-11 December 2016 in India
3.	International Anti-Corruption Academy (IACA) Summer Academy Training Program	1-8 July in Austria
4.	Training on Forensic Technology	8-12 May 2017 in India
5.	Anti-Corruption and Investigation Training	8-19 July 2018 in Malaysia
6.	Border Administration Training Course	7-27 August 2017 in China

Source: Annual report of CIAA, 2019

Table 1.17 Training programs received by employees in Nepal

S.N	Name of the training program	No. of participants
1.	Target Identification Training in 2016	29
2.	Complaint Management and Information Technology Training in 2017 in Surkhet	25
3.	Sting-operation and Complaint Management Training in 2017 in Nepaljung	24

4.	Fundamental Training in Investigation in 2016	51
5.	The investigation related Orientation Training in 2017	33
6.	Information Analysis and Sting-Operation training in Pokhara in 2017	20
7.	Engineering Lab Operation Training in 2018	22

Source: Annual report of CIAA,2019

Above table shows the various types of training provided by the CIAA to its employees. CIAA do not have its permanent staff and the employees are transferred after 2years to another department or ministries. In such cases, the trained employee may get transfer because of which they cannot use their expertise in their work. So, when the new employees are appointed in the commission then they should be given training and orientations which they can use to carry out the investigation process and it's a challenge for the commission. As the job of the CIAA officials is challenging, they have to use the different techniques and technological means to carry out sting –operations and investigation and detection process.

During the interview of 7 CIAA Officials, they were asked about whether they have received any training or not and about the training opportunity in CIAA. Out of 7 respondents, 6 respondents told that there is a limited training opportunity in CIAA. Only 3 respondents got the one-week basic training and other 4 respondents have not got any training opportunity from the commission. Their view reflects that training is necessary as it makes the employee more efficient and well-trained employee needs to be kept in commission for a specific period so that he/she could utilize his/her knowledge and skills. This shows that CIAA have limited training opportunity for its employees.

c. Stability of CIAA Personnel

Stability of ACA personnel refers to how long they are serving in the organization. The employees of CIAA are appointed by the government of Nepal. The recruitment of employees is done by the Public Service Commission and they are appointed by the Ministry of General Administration and Federal Affairs.

In the Civil Service Act, 1993 it is mentioned that the transfer of civil employees from one ministry to department or offices to another ministry to department or offices is done by Ministry of General Administration and Federal Affairs and the transfer of the employees of the account group under the administrative service is carried out by Financial Comptroller General.

Likewise, it is mentioned in the act that posting or transfer of the special class employee is made on the recommendation of the committee which consists of following members:

1. Minister of General Administration
2. Chief-Secretary of Government of Nepal
3. Secretary of the Ministry of General Administration
4. Secretary of the Office of Prime Minister and council of Minister if the transfer of Secretary of Ministry of General Administration is to be made.

It is also mentioned in the Act that transfer of employees is usually done after with one and half year and two years of their service by the ministry. Therefore, in the Commission for the Investigation of Abuse of Authority, the employees are transferred after one and a half or two years of their appointment. But in such a body when the transfer of employee happens in a short period then it cannot work effectively. Commission usually involves carrying out an investigation process which required some sort of experience, knowledge, and training. If the transfer of employee happens in a short period, then the new employee who joins the office needs more time to get to know about the organizational work. So, two years for an employee is very less time to get experience and to increase their performance level.

People's perception shows that if the commission can have its staff then it can work effectively and respondents were asked about their views on it which is interpreted as below:

One of the CIAA official revealed that having a permanent staff can have a negative impact as there is a high possibility that the staff can develop a nexus among the politicians and can work in favor of them which will make the commission ineffective. Instead of having a permanent staff, the government can increase the time-bound of the staff. Now, staffs are usually transferred after two years but it can be made up to 4-5 years then it could be better for the commission. Also, he mentioned that the commission has sufficient staff to carry out its day to day activities.

Ex-commissioner of CIAA explained that CIAA can do better if it has its own staff. But, it should make the provision for vertical promotion and give them ample opportunity for the growth. He believes that the human resource in the commission is not enough and investigation is not being carried out by those who are expert in it. Therefore, those having such background should be given opportunity to carry out the investigation process.

Other key Informants views show that having a permanent staff can be better for the commission to work effectively, but it should be examined first and necessary laws need to be made. Government is seen trying to do so but it is challenging for them as well so before going to it necessary preparation need to be done.

Also, respondents view reflects that CIAA lacks expertise while carrying out the investigation process. Because of the lack of expertise, they cannot complete the investigation process in time. Though they are providing training to the employee because of the transfer of the employees and limited training opportunity it lacks expert.

Therefore, regarding the human resource after analyzing the data generated it is found that there is limited training opportunity for the employees and lack of expertise for investigation. Data also reflects that CIAA could be made more capable by making provision of having its own staffs.

d. The proportion of CIAA budget to government budget

The budget is an important factor which reflects the government will in controlling corruption. An anti-corruption agency which receives adequate financial resources can only perform their work effectively. The amount of budget received by the commission in the last five years in proportion to the total government budget is shown in the table below:

Table 1.18. Proportion of CIAA budget to the government budget of the last five years

Year	Allocated budget to CIAA	Total Budget of year	Percentage of allocated budget over total budget
2013-2014	462412797	-	-
2014-2015	730958562	-	-
2015-2016	1020735112	819468000000	0.124%
2016-2017	1202052267	1048921354000	0.011%
2017-2018	1172708000	1315161700000	0.089%
Average			0.074%

Source: CIAA Annual Report,2019

From the table above we can see that in the year 2017-2018 out of the total budget 0.089 % of it was allocated to CIAA and in the year 2016-2017 it was 0.011% which was 0.124% in the year 2015-2016. The average for the last three years is found to be 0.074%. This reflects that the budget allocated by government to CIAA is increasing every year and is found to be sufficient according to the views of respondents.

e. Sufficiency and stability of Budget

Table 1.13: Expenditures for the last five years

Year	Expenditure(NPRs)	Percentage Of expenditure from the allocated budget
2013-2014	444776238	100%
2014-2015	709337590	97%

2015-2016	730157642	71%
2016-1017	870814895	72%
2017-2018	7856308752	73%

Source: CIAA Annual Report, 2019

From the total allocated budget, the expenditure was 100% in the year 2013-2014, 97% in the year 2014-2015. The trend for the last five years shows that there is a decrease in the expenditure percentage from the year 2014-2015 which comes to around 72%. This might be because of the increase in the total amount of budget in the following years.

While interviewing the respondents they show satisfaction over the budget that the commission received which is enough to carry out its functions and duties. Looking at the above table also we can conclude that the budget is increasing every year and there is no fluctuation in the budget which reflects that the budget is stable.

f. CIAA Personnel's Salary and Benefits

In the Civil Service Act, 1993 it is mentioned that the civil employee is entitled to salary and allowance from the day of his/her post and receive it after the completion of each month. The salary and allowance review committee which consists of 3 members where chief-secretary of the government of Nepal is chairperson review the salary, allowance and another facility of the civil employees. The government of Nepal based on the recommendation of the committee provide allowance to the civil employee. The same provision is for the employee of the commission. They get a monthly salary based on a scale determined by the government of Nepal.

Government of Nepal has also made provision of deducting 10% of the salary of the employee and then adding 100% of the deducted amount which will be deposited in the Employee Provident Fund. The employee also gets festival expenses and other facilities as in the provision made in the Civil Service Act, 1993. Employees receive an amount equivalent to the salary of one month as a festival expense each year. The provision

related to education allowances, medical expenses, disability pension, childcare allowances and other facilities is given as prescribed.

While interviewing the 7 CIAA Officials, 2 officials told that they were fully satisfied with the salary and benefits that they are getting and 5 officials were partially satisfied with the salary and benefits they are getting. Those who were partially satisfied with their salary and benefits expect rise on the salary.

Therefore, regarding the financial resources it is found that CIAA have enough financial resources and the budget is stable and sufficient to carry out its activities. But, employees were found to be partially satisfied with the salary and benefits they were receiving.

5.3.3 Investigation and Detection Process

Investigation and Detection is the principal function of the anti-corruption agency and its personnel should have the necessary skills to perform this function. The process followed by the CIAA officials to carry out the investigation process also affects its institutional capacity. To assess the Investigation and Detection procedure followed by the CIAA, document analysis was done and views of the respondents were also taken. The data generated are discussed below based on the different indicators:

a. CIAA Accessibility to Corruption Complaints

Anti- Corruption agency should be easily accessible so that it could receive a high proportion of corruption complaints relative to the perceived level of corruption in the country. After the registration of the complaints, CIAA goes for the further investigation process. For, a person who wants to file a complaint against any other person then there are many ways to so. With the development of Information technology, people can now file a complaint in an easy way through online complaint mechanism which CIAA adopted. In the website of the CIAA, it has provided various alternatives through which a person can file a complaint which are Hotline Number, Toll-free Number, Telephone Number, Viber Number, Fax Number, E-mail, Facebook, and Twitter. So, people can file a complaint using any of the above-mentioned means.

It is mentioned in the CIAA Rules, 2002 that anybody who wants to complain to anybody against the corruption he/she may present in the commission and send a complaint by any other means. The following details need to be mentioned while complaining:

- a. The full name, surname, address, designation, and office of the person committing corruption and other person involved in the act with his name, surname, and address.
- b. Description relating to corruption
- c. Date of the corruption complaint made and its information
- d. If anyone lodged a complaint keeping his/her name confidential based on such complaint commission may initiate actions relating to the investigation of corruption.

This reflects that CIAA is easily accessible to the people if they want to file a complaint against anybody. And, while filing a complaint against anybody it will be their choice whether they want to provide their identity or not. In some case when people don't have access to the technology or don't know how to use it then in such case they can also file a written complaint against the commission. Such complaints will be investigated by CIAA and necessary action is taken upon it.

According to the spokesperson of CIAA, “ most of the complaint they receive people who filed it do not reflect his/her identity and many of those complaints are of the small cases and not genuine and with the intention to take revenge people file it so, CIAA has to deal with those unnecessary complaints because of which they lost their time so, it will be better if it is made compulsory to mention the identity who is filing the complaint against anybody and also commission needs to make people assure that their identity won't be publicized and go outside the commission. Then only it could prevent from filing the fake complaint against anybody” .

From above information generated it is clear that CIAA is easily accessible and there are several means to file corruptions complaints. Because of its easy accessibility many of such complaints are found to be inauthentic which hampers its performance.

b. Investigation Process

When a person files a complaint and after the registration of the complaint in general registration book by CIAA, the investigation process starts. The initial inquiry has to be conducted when a complaint is received at the commission. Such inquiry is conducted either in its own by the commission or by the government agency or officials. Based on the initial inquiry if it is found that the person against which the case has been filed proved to be correct then detail investigation begin. In some serious cases CIAA may conduct detail investigation at first without doing initial inquiry. Following procedure need to be applied to conduct investigation upon the filed cases:

- Firstly, the complaints received from various sources are presented to chief-commissioner
- In co-ordination of the secretary of commission and departmental heads Screening Committee is formed which will do initial query of the complaint received and give its opinion
- The opinion from the Screening committee will be passed to Commissioners and based on their direction further investigation take place.

So, on the basis of the report of the initial inquiry conducted if the commission find it necessary to conduct investigation on such matter then it may assign an investigation officer with the duration to complete the investigation, the name of the necessary staffs for the support for the investigation officer and the necessary terms of reference to conduct the investigation. While making an appointment of the investigation officer it should be made in a format mentioned in the schedule-2 of CIAA Rules, 2002.

Likewise, in the case when the Investigation Officer failed to complete the assigned task in time he/she can request the commission to extend the time with the reason. Also, commission can change the investigation officer to complete the investigation if the investigation officer could not complete the task assigned to him/her in given time and if he/she said that the subject matter need to be investigated from another officer.

While calling for the statement and the inquiry or while seeking explanation of the experts or person having information, commission need to give notice in the format mentioned in the schedule-3 of the CIAA Rules, 2002. In case of taking statement of the person who have committed abuse of powers which could not be completed in one day then the commission may take statement by having him/her kept on custody or due date until the statement is taken.

After the completion of the task of investigation by the investigation officer he/she should submit the report along with his opinion after analysis the collected evidences. Then after, when the report is submitted to the commission and if the commission found any procedural error or other error then it may itself examine the documents and files.

When it is decided by the commission to file a case upon a person then the investigation officer who is concerned with the case will file the case to the concerned court having a charge- sheet in the provided format. While filing the case following things is needed to be mentioned in the charge-sheet.

- Name, surname, age of the accused with permanent and temporary address and family details
- Position, powers, duties, responsibilities and the date at the time of committing a corrupt act
- Facts or matters of the charges
- Amount of loss caused through the act
- Claim of punishment

After filing a case with the above mentioned details the investigation officer then need to inform the concerned authority within the three days after the case is filed.

After the receipt of the judgement and studying the judgement, the legal practitioner or the government attorney engaged in the commission need to submit his/her opinion to the secretary whether an appeal has to be filed or not. Then, the secretary will submit it to the commission with his/her opinion and commission will decide whether or not to file

appeal on the basis of the relevant law, court judgement and opinion submitted. If the commission decide to appeal, then through the legal practitioner or the government attorney of the commission file appeal to the concerned court.

In CIAA Act,1991 it has been mentioned that in case when there is adequate ground to believe that person against whom CIAA has initiated action may destroy the evidence or obstruct the action undertaken by the commission then the commission may give detention order under current law to keep him/her in detention.

The act has empowered CIAA to issue an order to the police to arrest the person who fails to be in the commission within the given time frame after getting the notice from the commission. Commission is also empowered to direct or conduct search of any place under the current law depending on the need and take into custody any files, document or object if necessary.

The commission has to conduct secret inquiries if a person files a complaint against any member of parliament, and any person holding a public post make any appointments made on a political basis.

It is also mentioned in the CIAA Act that commission can appoint the expert or the specialized agency depending on the need and make an agreement detailing the function of such expert and specialized agency, their terms and conditions, power, procedure and other facilities.

Therefore, reviewing the existing law related to the investigation process of CIAA, it is clear that several provisions are made in CIAA Act, 1991 and CIAA Rules, 2002. CIAA conducts investigation according to the above mentioned provisions. These provisions make a clear road for carry our investigation process.

c. Use of technology

Technology now a day has been a means through which an organization deliver its services more effectively, efficiently and in transparent way. In an anti-corruption agency, the use of technology can contribute to increase its institutional efficiency. As the main

task of commission is to carry out investigation of the corruption related cases, use of various types of technologies contribute to make the investigation process convenient.

It is mentioned in the report published by CIAA that commission is giving priority to Intelligence based Investigation with the use of new technology and instruments while carrying out day to day functions and investigation. This contributes to reduce the time to carry out the investigation process and make it more effective.

It has also been the main objective of the commission to move from less paper to paper less system with the adaptation of information technology instruments. Some of the IT instruments adopted by the commission are cyber lab, Cyber Forensic Equipment, Mobile Tracking from the year 2015-2016. They have also started video conferencing among the concerned bodies and commission. Commission has adopted CCTV around the premises of the CIAA Office and inside the office so as to supervise the activities happening in the office.

Cyber Forensic lab was established with the aim to keep surveillance of corruption related activities committed with the use of information technology. To operate the lab digital forensic unit is formed. In the lab digital equipment's like Forensic Recovery Evidence Device (FRED), Forensic Recovery Evidence Device Diminutive Interrogation Evidence Device (FREDDIE), Hardware Write Blocker, Social Media Forensic Tools, Forensic Duplicator are in used. To investigate and make analysis of the electronic evidences and to search the records in electronic means Cyber Forensic Lab is used. Engineering lab has been formed in the commission to conduct investigation based on the evidence. Among the complaints filed in the commission many of them are related to construction and developmental works. In such case, to investigate the quality of the construction materials used during the construction this lab was established which will give quick results.

Also, respondents view reflects that CIAA lacks technology to carry out investigation in an effective and scientific way because of which it takes long period to complete investigation process. The use of technology is limited in number in CIAA and they believe

that with the adaptation IT tools it can be more capable. Therefore, it is found that various IT instruments are being adopted by CIAA but it is still not enough to carry out investigations in scientific way.

5.4 Summary of the Chapter

We discussed the data collected from primary and secondary sources and analyzed it. To generate the data interview of the 13 key Informants were taken and other relevant documents were analyzed. Each of the indicators of the variables were discussed. Regarding the legal independence, it is found that in laws and acts CIAA is given enough power to work independently but during the appointment of the commissioner there exists a political interference which does not make CIAA operationally independent. Likewise, regarding human and financial resource, it is found that CIAA have enough human resource required to carry out day to day function of the commission but it lack expert in the field and they are given with limited training opportunity and they show dissatisfaction over the salary and benefits they are receiving. Also, regarding financial resource, government is providing budget in yearly basis and the provided budget is increasing every year and the expenditure is also increasing every year. Views from the respondents show that the allocated budget is enough to carry out day to day function of the commission. And, the last variable which is Investigation and Detection Process of the commission, it is clearly mention in the CIAA Act, 1991 and CIAA Rules, 2002 about the procedures that need to be followed while carrying out the investigation process. CIAA have adopted various technology and equipment with the formation of Engineering lab and Cyber Forensic lab to make the investigation process more effective and convenient but there remains challenge for CIAA to be institutionally capable.

5.5 Conclusion

This chapter is the overall representation of the field data. Focus has been done to keep the data within the indicators of the variables. Next chapter provides the findings and conclusion of the study.

Chapter Six

Findings and Conclusion

6.1 Introduction

This chapter is the final chapter of the thesis which summarize the findings of the study. The conclusion to the research question is drawn based on the analysis and interpretation of the findings from the interview and the document analysis. There was one objective and two research questions in this study. The objective was to assess the factors affecting institutional capacity of CIAA and the research questions were what policy provisions are there in CIAA Act in reducing corruption in Nepal and how do the various factors including CIAA independence, Resources, Investigation and Detection Process affect the Institutional Capacity of CIAA.

The theoretical perspective was based on the review of the related studies and literature review. From, the literature review theoretical framework was formed. This thesis assesses the factors affecting institutional capacity of CIAA where institutional capacity of CIAA was the dependent variable which was measured based on the several indicators. The independent variables include Independence of CIAA, Human and Financial Resources and Detection and Investigation Capacity that would affect the institutional capacity of CIAA. All the variables with their indicator were analyzed by gathering the data from the respondents through interview and from acts and laws. In the following section the major findings are discussed with the limitation and conclusion.

6.2 Major Findings

The major objective of the study was to assess the factors influencing institutional capacity of CIAA. The study found that the institutional capacity can be measured in terms of No. of cases investigated by CIAA, Average conviction rate, No. of sting operation and the Preventive and promotional activities carried out by the commission. It was also found that many of the provisions mentioned in the act and law has empower CIAA whereas some provision restricts the CIAA power and authority to conduct investigation such as they cannot investigate the policy decision made by council of ministers and the

army personnel, sitting judges and constitutional bodies members. Likewise, other findings regarding each variable are discussed below:

6.2.1 Institutional Capacity of CIAA

While measuring the institutional capacity of CIAA, first of all the No. of cases investigated by CIAA in last five years was collected and put it in a one chart. The data from the chart reveals that CIAA is not able to investigate all the complaints received in a year. Half of the number of complaints were seen transferred from the previous year. This shows that it takes long time for CIAA to carry out investigation over all the complaints received. Also, looking at the average percentage of cases resolved in the last five years it is seen that around 63.3% of the cases were resolved. This data reflects that most of the cases goes to disposition after preliminary investigation and only a small number of cases goes through detail investigation which is found serious by the commission. This reveals that the corruption complaints received by CIAA are not all the serious cases which involves the abuse of authority and corrupt act. It was also seen that CIAA fails to receive the complaints related with grand corruption.

Also, looking at the average conviction rate of the CIAA of last year it was 67.82% and the average of the last five years from 2013-2014 to 2017-2018 was 75.59%. This shows that CIAA is getting success in most of the cases which they filed in the court. In this regard, those cases which are filed in the respective court after the detail investigation by CIAA is getting satisfactory level of success. While measuring the institutional capacity of CIAA, the number of sting operation carried out in a year was also measured. Though the data was not available for the previous years but in the year 2016-2017, 64 sting operations were carried out whereas in the year 2017-2018 97 sting operation were carried out where 154 persons were involved. This reveals that CIAA is increasing its capacity to carry out such operations. Also, it is written in the laws that CIAA is responsible for carrying out preventive, promotional and punitive measures to control corruption. The data shows the various promotional and preventive activities are being carried out by CIAA for controlling corruption in the country. Their programs are conducted in some district or villages and

among the small number of people. Though CIAA is carrying out such activities the reasonable impact which it has to make is not visible in the society. For this reason, it has to make such programs more effective so the outcome can be seen. This reflects that CIAA is not capable enough to make positive impact in the society.

6.2.2 Independence of CIAA

Independence of CIAA was measured using the indicators such as legal independence, ACA mandate, appointment of Commissioners and Commissioner's term of office and removal. The data generated from the interview and the document analysis was analyzed. During the analysis, what was found is that CIAA have enough legal power to carry out its functions and duties independently and most of the respondents show satisfaction over the present laws and acts by which CIAA is guided. This means that CIAA is legally independent but while relating it with the appointment of the chief-commissioners and commissioners of CIAA, it is found that CIAA is not operationally independent. Key Informants told that there exists huge political interference during the appointment of the commissioners because of which leadership problem arise and institution cannot work effectively. Therefore, legal independence of CIAA affects the institutional capacity as only the independent anti-corruption agency where there is no interference in their works and appointment process of commissioners can show better performance. Likewise, the commissioner's term of office is fixed which is 6 years as per the constitutional provision. It is also clearly mentioned in the constitution about the circumstances which will cause the post of chief-commissioner and commissioners to remain vacant. This shows that CIAA seems to be legally strong and independent but operationally weak.

6.2.3 Human and Financial Resources

Findings regarding the human and financial resources revealed that the appointment of the CIAA personnel is done by government of Nepal based on the requirements and transfer of such employee happen after 2 years and in some case after half year. Because of the short duration of transfer of employees, CIAA is not able to show better

performance. To carry out the investigation process it requires specific trainings and when an employee lack such training then he/she could not show it in his/her performance which impact the performance of the CIAA and make it institutionally incapable. Altogether in CIAA head office and regional offices, 820 employees are working and while making an analysis of the foreign training and training inside the country received by the employees the data shows that only a limited number of employees are getting training with limited opportunity. From an interview it is found that only 3 of the CIAA officials have received training which is basic training and other four officials have not received any type of such training. Respondents also told that CIAA lacks experts to carry out the investigation process and also most of them were not satisfied with the salary and benefits they were getting which demotivate the employee to perform better. Based on these data generated what we can conclude is that CIAA is not able to get a qualified employee with the knowledge in investigation which decline its institutional capacity. Therefore, CIAA lacks having competent employee with enough training opportunity and stability in job.

Also, the findings related to financial resources revealed that CIAA is getting budget regularly from the government and is increasing every year. The average proportion of CIAA budget to government budget is found to be 0.074% in last three years and out of the allocated budget the average percentage of expenditure in last five years is 82.6% which shows that CIAA expenditure is less than allocated budget. Looking at the budget chart of last five years it is clear that there is no fluctuation on the budget received by CIAA. From the respondents views it shows that CIAA have enough budget to carry out its functions and duties. Therefore, regarding financial resources CIAA is capable with the required budget to perform its function.

6.2.4 Investigation and Detection process

Findings regarding investigation and detection process revealed that without having a clear mechanism to carry out investigation CIAA cannot be institutionally capable. From the data generated from the acts and laws it shows that there are several provisions

regarding the process to carry out investigation and inquires upon the person who has committed an act which is defined as corruption by law. This clearly written investigation procedures help the commission to carry out the investigation process more effectively. Also, regarding the accessibility of corruption complaints, CIAA is easily accessible to the person who wants to file case upon anybody who has committed corruption or such acts which involves abuse of authority. People can file complaints through online mechanism and other sources. Therefore, it provides easy access to the people who wants to file complaints. Likewise, regarding the use of technology while carrying out investigation and detection function respondent's views shows that CIAA lacks IT tools and other equipment which could ease the investigation process. From the annual report of CIAA, it reflects that recently it has adopted cyber lab, cyber forensic equipment and engineering lab to collect the evidences required for investigation which has contributed to make the investigation process convenient, simple and complete in short duration. Therefore, overall findings show that CIAA is easily accessible to public to file a complaint against anybody, it has clear investigation procedures but the use of technology to carry out investigation is limited.

6.3 Conclusion

CIAA is an independent government institution which is working with the single responsibility to control corruption in the country. For such institution it should be institutionally capable to carry out its functions and duties. This study was able to access the factors influencing institutional capacity of CIAA and contributes to develop an understanding of the factors affecting the institutional capacity of CIAA.

To conclude, the findings indicated that factors such as independence of CIAA, human and financial resources available, and investigation and detection process affects the institutional capacity of CIAA. After assessing these factors, it is clear that CIAA is legally independent but not operationally independent and it required changes in some laws to make it more capable. Also, for the human and financial resources, CIAA do possess enough financial resource but regarding human resource it is challenge for the commission to make them competent. As, CIAA do not have its own staff, the transfer of

employee happens usually after two years gap which has caused it to be ineffective. The limited training opportunities and the lack of experts required in investigation shows that it is affecting the performance of CIAA. Moreover, the investigation and detection process of CIAA found to affects its institutional capacity. The accessibility of CIAA to file a complaint is found to be effective and the process involved during investigation is clearly mentioned in the laws but the adaptation of new technology to carry out such investigation is found to be limited. Therefore, the objective of the study has been achieved which was to assess the factors affecting institutional capacity of CIAA and it shows that CIAA is not institutionally capable enough to control corruption in the country.

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Annex I

Set of interview questions for CIAA Officials

This questionnaire is a part of the research paper entitled "Commission for investigation of abuse of authority(CIAA): An assessment of Institutional Capacity to Combat Corruption" of Master in Public Policy and Governance (MPPG) program at North South University, Bangladesh. The objective of the research is to assess the factors affecting the institutional capacity of Anti-corruption Agency of Nepal. In this regard, your authentic and practical response is greatly expected. However, your shared information will only be used for academic purposes keeping your identity confidential.

Part A

Respondent's Name.....

Educational background.....

Gender:

Part B

1. How long have you been working here?
2. What position are you serving in this institution and in which section?
3. How far are you satisfied with the legal independence of ACA?
4. Do CIAA have enough legal power to work independently? What is your opinion about this?
5. What changes do you think is required in the laws and acts to make CIAA more capable?
6. Is there political interference while carrying out investigation process?
7. Do government use CIAA as a weapon against political opponents? If 'yes' is there any evidence of it?
8. Do the appointments of commissioners is fair and based on professional criteria?
9. What do you think about the appointment of CIAA Commissioners regarding political interference?

10. Do CIAA focuses only on the investigation or it also provides awareness and carry preventive measures? What could be better?
11. What about the training opportunity in CIAA?
12. Have you got any training opportunity after joining CIAA? If 'yes' how many and what was the training about?
13. Due to lack of training CIAA is suffering to carry out its functions. what is your opinion about this?
14. Are you satisfied with the salary and training that you are getting?
15. Is CIAA easily accessible to complain makers? What proportion of corruption complaints does CIAA receive relative to a perceived level of corruption?
16. CIAA has not been able to investigate all the complaints which have been received? What could be the reason in your view?

Set of Interview Questions for Key Informants

1. How long have you been working here?
2. What is your Job Position and Job Responsibility?
2. Give me your opinion about the present scenario of Corruption and how CIAA is working?
3. How far are you satisfied with the legal independence of CIAA?
4. What do you think about the CIAA legal power? Is it enough to work independently?
5. What changes do you think is required in the laws and acts to make CIAA more capable?
6. What do you think about the appointment of CIAA Commissioners regarding political interference?
7. Do government use CIAA as a weapon against political opponents? Is there any evidence of it?
8. Is there political interference while carrying out an investigation process?

5. Do CIAA focus only on the investigation or it also provides awareness and carry preventive measures?

9. Because of the frequent transfer of employee CIAA is not working effectively? What is your view on this? Does it require separate staff?

10. The CPI ranking of Nepal is below the average though CIAA is working from many years to control corruption what could be the reason behind it? Do CIAA is playing its role effectively or is there any other factors behind it?

12. What is your view about investigation and detection capacity of CIAA?

13. It is in the people's perception that CIAA is targeting small fish but not big fish? Why is it so?

14. What is your recommendation and suggestions to make CIAA more capable?