



Understanding the Context of Nepal for Social Accountability Interventions

Community of Practice on Social Accountability (CoPSA)

In partnership with

ANSA
South Asia Region



#1307

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We are also grateful for all the guidance, inputs and advice provided by George Cheriyan, Director, CUTS International.

Acronyms

CDO	Chief District Officer
CIAA	The Commission for the Investigation of Abuse of Authority
CSC	Community Score Card
CSO	Civil Society Organisation
CUTS	Consumer Unity & Trust Society
DAO	District Administration Office
DDC	District Development Committee
DPHO	District Public Health Office
GGA	Good Governance Act
LRO	Land Revenue Office
LSGA	Local Self Governance Act
MoHP	Ministry of Health & Population
MoFALD	Ministry of Federal Affairs & Local Development
NCDI	National Capacity Development Institute
NIC	National Information Commission
NVC	National Vigilance Centre
OAG	Office of the Auditor General
PA	Public Audit
PAC	Public Accounts Committee
PH	Public Hearing
PRAN	Programme for Accountability in Nepal
RTI	Right to Information Act
SAC	Social Accountability
SC	Special Court
SWC	Social Welfare Council
VDC	Village Development Committee
WB	World Bank

Preface

In many of the South Asian countries and elsewhere in the world, social accountability initiatives are an established part of the governance agenda. In many of the countries, the accountability tools that were first pioneered by citizens to hold service providers to account are now institutionalised and implemented by the government itself. While this is a significant trend in itself, in the scale-up and institutionalisation of these citizen-driven initiatives, it is important to measure impacts of these interventions, as well as the impact of other civil society-driven interventions.

A number of these initiatives have been carried out but with limited evidence of their impacts on service delivery and development outcomes. Often, indicators to assess these accountability interventions are too broad and do not capture complex and multi-layered change. Between the introduction of an accountability intervention and the development outcomes that these interventions are targeted to achieve, there are a number of external and local factors, which will impact the types of changes that will take place.

To better understand what interventions worked and what not worked, in what circumstances and whether and under what circumstances, such as socio-economic, political and cultural, transparency and accountability interventions have an impact on the outcomes, it is important to understand the context. Hence, the context analysis is gaining a momentum, especially with regard to the governance and social accountability interventions.

A sound governance context analysis at country, sub-national and/or at programme planning and implementation level, will increase the opportunities to design strategies and programmes that effectively address the barriers and leverage the opportunities to promote good governance and deliver sustainable change.

In this background, a context analysis was done in selected districts of Nepal of the social accountability interventions using the tool of Community Score Card (CSC). On invitation from the Programme for Accountability in Nepal (PRAN), as organised by Pro Public, Nepal, CUTS sensitised the Ministry of Health officials and trained CSO representatives from selected districts of Nepal in November 2011 on using CSC in Health Post to improve the quality of

health service delivery. After the training the CSO representatives implemented the CSC in various districts. The context of this intervention was analysed.

The analysis was done under the Community of Practice on Social Accountability (CoPSA) project in partnership with Affiliated Network on Social Accountability-South Asia Region (ANSA-SAR) and supported by World Bank Institute (WBI).

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George Cheriyan
Director, CUTS International &
Head, CUTS Centre for Consumer Action, Research & Training (CUTS CART)

Introduction

What is Context Analysis?

Different actors in the society play differently according to the incentive they receive from winning or losing the game. The decision of formulating and adopting any programme of development is based on the factors related to political economy of the programme. The success or failure of the programme also depends on the incentive or disincentive the key players get out of the programme. Context analysis is analysing how different actors in society – government, media, civil society organisations (CSOs), ruling political parties, opposition parties, religious authorities, and more – have differing incentives to enable or block development interventions and develop the understanding for successful development planning.

Context analysis is a method to analyse the environment in which a programme operates. The environment refers to social, political, economic, legal, institutional and other factors, as well as processes concerning the use of resources in a given setting and how these create impact on the implementation of development interventions. The core of Context Analysis is a focus on how a society's actors, who face varying incentives and constraints, shape the likelihood of programme success.

Context analysis is based on a set of assumptions of how development works. These are:

- Development requires a change in power relations and/or incentive systems
- The powerful reward their supporters before anyone else
- All actors in society have interests and incentives
- Resources shape incentives
- But all stakeholders in a society have constraints

How is Context Analysis Useful?

Since the success or failure of interventions largely depends on the environment it is implemented, Context analysis helps in formulating the project considering the whole environment, putting appropriate strategies in place to meet out the challenges and risks for the project. It also helps in the understanding of how various interests and forces can influence

the delivery of outputs at the project level and the probable entry points. Eventually, it allows the project manager to reflect on the dynamics between their project and the context within which it is to be deployed.

Context analysis helps the project to be more strategic in their engagement with different actors. It recognises core development problems stemming from the political and economic development. It provides a framework for understanding the incentive and constraints that frequently pit social actors against one another. Context analysis can add value to many areas including governance issues. Development projects in diverse sectors, be it environment, women's economic empowerment, or post-conflict reconstruction – all work with social actors who have varying incentives to engage in pro-development behaviour. Context analysis can help development partners to assess the likelihood that certain partners will collaborate or will resist change, for example in the level of support to mainstreaming gender concerns.

Why is Context Analysis Important for Social Accountability Interventions?

Social accountability (SAC) is an approach towards ensuring accountability by engaging citizens and citizens' groups directly or indirectly. All the power holders (political, financial, public officials or others) are obliged to be accountable towards people for their actions. But, most of them show weak accountability at most of the occasions. The concept of SAC includes a wide range of actions and mechanisms that citizens, communities, media and CSOs can use to hold public officials.

However, there are evidences from around the world those suggest that SAC mechanisms are very effective in bringing accountability and transparency and improving development outcomes. But it has remained an understated fact that behind all the successful SAC interventions, presence of an enabling environment was a key factor. Context is very important for bringing the successful implementation of SAC approaches because it involves all stakeholders' viz. citizens, media, elected representatives, CSOs, government etc. Implementation of SAC mechanisms requires well-functioning democratic institutions, space for citizen participation, government prone to reforms, champions in the government to take the initiatives forward.

Some country contexts are more favourable for SAC actions to be effective. Where there is strong government commitment to SAC reforms, these are more likely to succeed. In contexts with little or no government will to implement SAC reforms, these types of interventions are less likely to be effective. Not all SAC reforms are equally suited for all country contexts. For example, in countries with stronger governance, policymaking and budgeting may be feasible. The country context will also help determine the appropriate degree of institutionalisation of a SAC initiative. In countries with strong governance, the approval and implementation of legislative and regulatory frameworks for SAC may be feasible.

Chapter 1

Historical Background of Nepal

Historically Nepal was divided into small kingdoms and principalities which were ruled by kings. After decades of rivalry between the medieval kingdoms, modern Nepal was created in the latter half of the 18th century, when Prithvi Narayan Shah, the ruler of the small principality of Gorkha, formed a unified country from a number of independent hill states. Prithvi Narayan Shah dedicated himself at an early age to the conquest of the Kathmandu Valley and the creation of a single state, which he achieved in 1768.

After 1800, the heirs of Prithvi Narayan Shah proved unable to maintain firm political control over Nepal. A period of internal turmoil followed with the Anglo-Nepalese War (1814-16) in which Nepal suffered a complete rout. The Rana dynasty of Rajputs ruled the Kingdom of Nepal from 1846 until 1953, reducing the Shah monarch to a figurehead and making Prime Minister and other government positions hereditary. Jung Bahadur was the first ruler from of Rana dynasty.

Popular dissatisfaction against Rana regime and internal turmoil culminated in King Tribhuvan, a direct descendant of Prithvi Narayan Shah, fleeing from his 'palace prison' in 1950, to newly independent India, touching off an armed revolt against the Rana administration. This eventually ended in the return of the Shah family to power and the appointment of a non-Rana as prime minister. A period of quasi-constitutional rule followed, during which the monarch, assisted by the leaders of fledgling political parties, governed the country. During the 1950s, efforts were made to frame a constitution for Nepal that would establish a representative form of government, based on a British model.

In early 1959, Tribhuvan's son King Mahendra issued a new constitution, and the first democratic elections for a national assembly were held. The Nepali Congress Party, a moderate socialist group, gained a substantial victory in the election. Its leader, Bishweshwar Prasad Koirala, formed a government and served as prime minister. After years of power wrangling between the kings (Tribhuvan and Mahendra) and the government, Mahendra

dissolved the democratic experiment in 1960. He dismissed the elected Koirala government, declared that a "partyless" *Panchayat* system would govern Nepal, and promulgated another new constitution on December 16, 1960.

The Nepali Congress with support of "Alliance of leftist parties" decided to launch a decisive agitational movement, *Jana Andolan*, which forced the monarchy to accept constitutional reforms and establish a multiparty system in 1990. In May 1991, Nepal held its first parliamentary elections in nearly 50 years. The Nepali Congress won 110 of the 205 seats and formed the first elected government in 32 years.

In February 1996, dissatisfied with the workings of the democratic system, the Communist Party of Nepal (Maoist) started people's war in Nepal. The rebellion continued for a decade and in between royal massacre took place. After the Royal massacre on June 01, 2001, Prince Gyanendra Shah inherited the throne, according to tradition. Meanwhile, the Maoist rebellion escalated, and in October 2002 the king temporarily deposed the government and took complete control of it. On February 01, 2005, the then King Gyanendra dismissed the entire government and assumed full executive powers, declaring a "state of emergency" to quash the revolution.

In between, the Maoist rebels signed a Comprehensive Peace Agreement with the then political parties and agreed to join the peaceful politics after ending decade long armed conflict in 2006. By joining hands with the Maoists, second People's Movement also known as April Uprising forced the king to reinstate the parliament in April 2006. A seven-party coalition resumed control of the government and stripped the king of most of his powers. As of January 15, 2007, Nepal was governed by an unicameral legislature under an interim constitution. On December 24, 2007, seven parties, including the former Maoist rebels and the ruling party, agreed to abolish the monarchy and declare Nepal a Federal Republic.

Chapter 2

Present Political Context

Rulers of Nepal have been unaccountable and undemocratic towards their people. By and large, Nepali society has been divided by caste, gender and large ethnicities. This has contributed to widespread poverty and discrimination. Frequent changes of government, inter-party conflict, lack of governance, absence of accountability and transparency, widespread corruption, slow implementation of important political changes and emergence of armed conflict shaped the political landscape of Nepal.

For the first time in the history of Nepal, the Constituent Assembly elections took place in April 2008 and the Maoists become the largest political force in the Assembly through no party got the majority. Nepal also became a Federal Democratic Republic by the majority decision of the first meeting of the Constituent Assembly and the monarchy was abolished on May 28, 2008.

In course of time, the elected Constituent Assembly could not promulgate the constitution and was dissolved on May 28, 2012. However, the country is preparing to go for next round of constituent assembly elections under the elections government led by Chief Justice of the Supreme Court of Nepal. Similarly, country has been facing big challenges to bring tangible changes in the local governance and community development process. To improve the living standards of the rural people through community led development, efficient service delivery, good governance, based on a democratic value system and rights based approach and inclusive development efforts are deeply needed.

Nepal has 75 districts with 75 districts development committees (DDCs), 58 municipalities, and 3,915 village development committees (VDCs). The latest definitive laws governing local government in Nepal is the Local Self-Governance Act (LSGA), 1999. DDCs, VDCs and municipalities are governed by elected governing councils with enough legal mandates to plan, allocate and spend resources. They meet twice a year to decide policies, approve budgets and accounts, and to authorise specified major decision of the elected committees, which meet monthly, and run day-to-day affairs.

However, due to the transitional political phase being faced by the country, since 2002 local body elections have not taken place. Now, these bodies are being run by the government officials. Due to not having the elected officials in place, there is a very limited institutional capacity at the grassroots to implement accountability requirements as set forth in the Act. This has greatly constrained the scope of the interaction between the local governments and communities which have minimised the scope for instituting downward accountability in absence elected representatives.

Making local government more sensitive to the needs and voice of children, women, *Dalits*, indigenous nationalities and other marginalised groups is very challenging. Nepal is a highly stratified society within which women and the disadvantaged groups of people have little access to power and development opportunities. However, Nepal's constitution and subsequent laws and policies have guaranteed equal participation and engagement of the citizens in the decision making process and at the state organs.

Despite the existence of citizen-friendly laws and policies, the country has been facing big problem in implementation of such policies and laws as expected due to political transition. Thus, as there are already ample laws and mechanisms provisioned in the laws/guidelines/directives, they offer enough space for SAc works to take place. Many people during context analysis believed that present context will be more favourable and conducive for governance and SAc related works and initiatives to happen when the political transition ends and country returns to normalcy with promulgation of full-fledged constitution.

Chapter 3

Stakeholder's Observation

Political Parties

A group of political party representatives interviewed in Kathmandu and in districts during the context analysis expressed that Nepal is passing through the political crisis following the dissolution of the Constituent Assembly on May 28, 2012. After the dissolution, political situation has been vulnerable as nation is being run by ordinances. Since there is no opposition party and the elected parliament, accountability of the incumbent government has been in question.

Though Nepal has a number of good governance-friendly legislations and laws, their poor implementation has brought no substantive results. With no elections at the local bodies in Nepal for nearly a decade, this has created manifold governance problems and disrupted democratic functions at the grassroots. The political parties opined that Nepal's state of democracy has shrunk as no existing accountability mechanisms are fully functioning because of prolonged political transition from 'feudal past to federal democratic future'.

Corruption has increased alarmingly in recently years, especially during political transition. As anti-graft bodies and oversight constitutional agencies are made defunct by political influence, chances of getting caught by such agencies for corruption have been lower. This has boosted the morale of the corrupt though the media do at times rake up corruption scandals and issues. Political parties believe that national media has been playing active role in exposing corruption scandals and issue of public interest. Though media community itself is politically obsessed and are affiliated to political parties/interests, they have been discharging their functions responsibly and vibrantly in the present context of Nepal.

Space for civil society activism is adequate. However, their performance and role in the present context, as political parties believe, is not much satisfactory. Civil society had played constructive and vibrant role in restoring democracy at different points of time in the past, but there is no united civil society voice as there are also politically divided and branded.

Judiciary has been quite vibrant in delivering verdicts on corruption and public interest issues in recent times.

Government Agencies

Political instability is a major challenge to delivering services to people. Though various downward and vertical accountability mechanisms are in place, political transition and lack of full-fledged constitution has made the present situation not so much conducive to make them function and effective. Mechanisms, such as Citizen Charters are put in place to ensure improved SAc in public service delivery and government line agencies are delivering goods and services as per the service delivery standards. However, they feel, there is a gap at the local level for not having the elections to the local bodies for quite a long time. In absence of elected representatives at local bodies, vulnerability of development grants to misuse and corruption has substantially increased in recent years compared to a situation when local bodies were run by the elected people's representatives.

Government officials interviewed during the context analysis accepted that they don't have any problems in running day to day affairs but while embarking on new reforms and initiatives, current political transition becomes a nuisance. They also felt that civil society organization's role and performance in delivering services has been quite praiseworthy and supportive to the government. Due to CSOs campaign and advocacy, people's awareness about their socio-economic and political rights has gone up as they have become more demanding and assertive as well.

Government officials accept that transparency and accountability has increased as there is public pressure and demand on them to open up state affairs to people. The promulgation of Right to Information law and other accountability standards have put pressure on government agencies to provide information to people on demand. National Information Commission, as an oversight body, has been proactive in creating enabling environment for ensuring greater transparency and accountability despite its limited human resources and funds.

Nepal has adequate laws and regulations to promote good governance. Every ministry has a good governance unit. There is clear provision for citizen charters, complaints hearing mechanism and service delivery monitoring committee under existing government laws, policies and directives. Government officials accept that media is supportive and critical as well when there are governance failure issues and scandals. They believe media is free and has been performing its role vibrantly. They also expect that once the current phase of transitional politics is stabilised, things will begin to improve and create expected result through improved level of governance.

Civil Society Organisations

The non-profit sector gained momentum in Nepal since 1990s. Since then, the socio-political environment in which CSOs operate has also changed significantly. They have gained increasing

influence over the national policy and priority as being an ally of the government in delivering various services. Role of CSOs in Nepal has become more prominent and assertive across a broad spectrum of interventions. From building social capital through SAc interventions to infrastructural development, they have enormously contributed to enhance peoples' capacity to bargain with the state and hold it to account for its actions.

Nepal government has put in place a statutory body called Social Welfare Council (SWC) to monitor and supervise the use of funds by the CSOs. Though there is no any sort of legal restriction or barriers for getting funds from donors, every CSO should get approval of the funding or project from the SWC before it implement the project. SWC is the only monitoring body for the CSOs in Nepal whereas respective District Administration Offices in Nepal, where CSOs should get registered and get renewed annually, have the authority to regulate this non-profit sector in Nepal.

Nepal can be considered as one of the countries in South Asia where CSOs are free to conduct the activities without any restriction from the government agencies. There are no such any policy barriers that hinder CSO programmes or their approach in receiving funds from the donors. Though there have been no such incidence of restriction or oversight on CSO activities and programmes in the past, corrupt practices and scandals involving some influential CSOs in Nepal recently have called for greater scrutiny and public oversight of the non-profit sector.

CSOs in Nepal have been carrying out various SAc interventions and initiatives, such as public hearing, public audits, social audits, citizen report cards, community score card, public expenditure tracking survey, community monitoring and right to information, among many others. These SAc interventions and mechanisms pursued by CSOs have become successful and drawn much appreciation and ownership from the government agencies. Government laws and directives with mandatory provisions for public hearing, public audits, social audits, citizen charters, among others, can be taken as proactive initiatives from the government to institutionalise these tools due to success and effectiveness of CSO interventions on SAc in recent decade.

Civil society advocates and activists are of the opinion that democratic space in Nepal has expanded in recent years as Nepal is declared Federal Democratic Republic. Economic, social and cultural rights have been guaranteed by the Interim Constitution of Nepal. Various constitutional bodies and oversight mechanisms are in place to check government accountability and transparency. But the prolonged political transition has been creating negative impact on the functioning of such public oversight bodies and agencies as many of them are lying vacant for years due to political influence and brinkmanship. Political parties are monopolising the democratic space which, in fact, has led to creation of fragile and non-performing governance system in political transition. The state has not been at the level expected to enforce law and order, which has explicitly encouraged impunity.

Civil society representatives fear that rights entrusted to local governments in Nepal can be confiscated in the constitution making process. Nepal's Local Self-Governance Act has many democratic provisions and principles of decentralisation by virtue of which local bodies can plan, allocate and collect resources at the local level. But lack of elections at the local bodies since 2002 has made them much vulnerable to corruption as development grants to these local bodies has significantly increased because of 'competitive populism' pursued by the political parties in government at different points of time.

Whenever any corruption issue and scandal occurs in at local level, local media doesn't have the courage to pick up the story as they get subjected to torture and harassment by the corrupt politicians. However, media community in Nepal has been championing the cause of democracy and governance quite vibrantly. Civil society representatives believe that Nepal has enough provisions and space for practice of SAc tools but technical skills and knowledge for effectively implementing such tools are also required. For this, CSOs are facing resource crunch as they have to mostly depend on international donors for financial assistance. As international donor community is more concentrated on political agenda and issues during the transition, resources for SAc mechanisms and good governance-related activities is not abundant. Civil society advocates and activists are also of the view that once the country returns to political stability, there is enough socio-political and legal ground for SAc initiatives and good governance activities to speed up.

Donor Community

Representatives of the international donor organisations strongly believed that Nepal has a fertile ground for practicing various SAc tools as there are required formal structures and legal frameworks. Their view is that misallocation and irregularity in the use of development funds at the local level is being exposed by the use of SAc tools like public hearing, public audit, public expenditure tracking survey and social audit. They also believed that practice of SAc tools has been easier as there are no elected local bodies to confront the SA results and findings. However, existing laws and frameworks are being used by CSOs to hold the service providers accountable and transparent even during the political transition.

They also felt that there no abundant resources for promoting SAc tools and initiatives. Under the financial support of PRAN/the World Bank, various SAc mechanisms and tools, such as community score card, citizen report card, public expenditure tracking, community monitoring and many others are being piloted and practiced in different sectors in Nepal. Despite having various governance-friendly laws and policies in Nepal, they suffer from poor implementation and lax monitoring from the concerned agencies. Donor representatives also believed that CSOs are using media for disseminating information. But the media community also needs to be adequately sensitised on the importance of SAc tools in Nepal for its wider dissemination of information about the use of such tools and mechanisms.

Media

Journalists and media persons were interviewed in Kathmandu and in districts during the context analysis. They were of the view that media has been playing critical and constructive role in empowering people about their rights, public interest issues and agenda. Though media, at present, has been obsessed with political affairs and issues, they are also contributing to social cause of good governance and strengthening of democracy. With media advocacy of legislations, such as Right to Information and other prevailing laws and regulations, as media persons believed, transparency and accountability has increased among the bureaucrats and government agencies. As other stakeholders believe, media persons also thought Nepal has enough legal frameworks and policies to promote good governance and SAc but the problem lies in the robust implementation of the existing laws.

As media itself is not much aware about importance of the SAc tools, it also needs to be empowered on the types of tools that Nepal has been practicing so far. They believed that CSOs' role in promoting service delivery and transparency has been quite appreciative. However, they have their own problems of transparency, accountability and internal governance. Judiciary has been proactive in delivering verdicts on public interest agenda and issues of high national interests. They are also of the view that people's awareness about their rights and provision of government services has increased significantly because of media and CSO activism. Nepal's media community has been exercising freedom as given by statutory and constitutional guarantee. However, there is a practice of self-censorship in the national and local media due to volatile transitional and deteriorating law and order situation.

Citizens

Citizens interviewed during the context analysis believed that political parties are the crux of present political stalemate in Nepal. As they failed to act accountably in the post-conflict settings, the Constituent Assembly could not promulgate the long-anticipated constitution. The collective failure of political parties led to the emergence of constitutional crisis that Nepal has fallen into. Their trust in the state institutions has also gone down as they have failed to live up to people's expectations. They also believe that media and CSOs are doing their part of the job accountably compared to the other existing state institutions. Citizens are of the view that their level of awareness has increased due to open media and CSO activities and programmes. People also hold the view that if the political turmoil and deadlock ends with the promulgation of the constitution, the country will move on the path of prosperity and development with improved level of accountability and transparency.

Chapter 4

Existing State Accountability Mechanisms

Interim Constitution of Nepal guarantees various fundamental rights of people and has provisions for establishing a number of institutions for ensuring accountability, transparency and oversight. Good Governance Act promulgated in 2006 has made the public service providers accountable and transparent with provisions to make public service delivery inclusive and participatory. Right to Information Act enacted in 2007, has been very progressive in implementation in recent years compared to the South Asia region which has granted citizens' unhindered access to a wide range of public information.

Similarly, there are dozens of horizontal accountability mechanisms in Nepal. But, there is a very limited institutional capability to implement these existing mechanisms as set forth in the laws and policies of the Government of Nepal. Some horizontal accountability mechanisms and their brief scope of the work are given as follows:

Commission for the Investigation of Abuse of Authority

The Commission for the Investigation of Abuse of Authority (CIAA) is a constitutional anti-graft agency. It has the legal mandate to act an investigator, prosecutor and work as an ombudsman. It has legal authority to summon any public office bearers for matters of investigation and can file charge-sheets if there are sufficient evidences of corruption and malpractices. It can examine any file or document of the government and public organisations. The CIAA is the single agency which can look into all aspects of the abuse of authority by public servants.

National Vigilance Centre

National Vigilance Centre (NVC) constituted under the Corruption Control Act, 2004 is mandated to prevent corruption and raise public awareness on effective service delivery and mismanagement. The Centre is under the direct control and supervision of the Prime Minister. NVC can conduct spot checks and see if irregularities have been committed and information is referred to the concerned organisation and, where appropriate, to the CIAA for further investigation and prosecution. NVC plays a preventive role, primarily by monitoring asset declarations of government officials and also conducts technical audits of development projects implemented by the government.

Office of the Auditor-General (OAG)

Office of the Auditor General (OAG) is authorised to audit the accounts of government agencies prescribed under Article 122 of the Interim Constitution of Nepal. OAG has a key role to play in exposing cases of corruption, during its process of auditing books of account. The annual report of this constitutional body is presented to the Parliament through President of Nepal. This institution conducts independent audits and evaluations of public resource use and seeks to promote and uphold public accountability. In particular, OAG assesses whether expenditures made and revenue collected comply with the rules and regulations of the Government of Nepal.

Public Accounts Committee

Public Accounts Committee (PAC) is constituted as per the provisions of the Constitution and the House of Representative Regulations 1998 and is entrusted with the task of examining government accounts, public accounts and public properties investigations relating to financial transactions made by the government agencies. It has the authority to call in the prime minister, ministers, secretaries and other officers of government of Nepal for questioning in relation to irregularities and corruption. The PAC was considered to be one of the most active Parliamentary Committee to combat corruption. PAC's main function is to examine the public accounts and the report of the auditor general to reduce misuse and abuse of public funds. The committee is empowered to direct to concerned government officials to explain financial irregularities that might have been specified in the report of the auditor general

Office of the Attorney General

Under the recommendation of the President, Prime Minister appoints Attorney General. Attorney General (OAG) is the chief legal adviser to the Government of Nepal. However, in the case of corruption, CIAA is the prosecutor in the court of law. The Attorney General and his deputies represent the case on behalf of CIAA in the court of law in Nepal.

Regional Administrations and Chief District Officers

The Regional Administrators are designated to maintain vertical accountability and are also delegated authority to investigate cases of corruption involving public post holders. Similarly, the Chief District Officers (CDO) are also delegated such authority. However, these arrangements for delegation of authority to the regional and district level do not yet function effectively, which has become a barrier to implement accountability mechanism at the local level.

Judicial Council

The Constitution provides for the establishment of Judicial Council under the chairmanship of the chief justice of the Supreme Court of Nepal. Other members of the Council are the Minister of Justice, two senior-most Justices of the Supreme Court and a legal expert appointed by the President. The Council is empowered to investigate or inquire into the complaints lodged against judges of Appellate or District Courts alleging improper behaviours, misconduct, inefficiency, dishonesty and corruption. A suit against such judge may be filed in the Appellate Court if the Council makes a decision on investigation of such case.

Crime Investigation Department with Nepal Police

Established within the Nepal Police, the department's mandate is to investigate civil crimes only. The department can also be mobilised to investigate financial crimes and the cases of fraud as well.

Special Court

The Special Court has been constituted under the Special Court Act, 2002 to hear the cases of a special nature. The Special Court comprises a three-member bench nominated upon consultation with the Judicial Council. Currently, there is only one special court in Kathmandu, which is assigned to look into corruption cases initiated by the CIAA.

National Investigation Department

Established within the Ministry of Home Affairs, the department is involved in providing intelligence service to the government. The Department has wide networking in the country. Though the department is not directly involved in checking accountability and controlling corruption, manpower and information can be mobilised for the purpose as well.

Revenue Investigation Department

The Revenue Investigation Department was formed under the Revenue (Inspection and Control) Act, 1996, to conduct investigations into revenue leakage and malpractice. The Department is established within the Ministry of Finance. The potential for the leakage of revenue is divided into three, namely, export and import sector, clearance of value added

and income taxes and transactions involving foreign currency. The Department has its own mobile force to detect revenue leakage. There is perceptible thinking that, in order to make this department more effective, it needs to be detached from the Ministry of Finance and keep under the control of the Prime Minister's office to control financial mismanagement in the public organisations.

Office of the Comptroller General (Government Dues and Arrears Collection Office) The purpose of this long established institution is to collect government dues and arrears from any persons liable to pay, refund or settle amounts with the government. This is like a central collecting agency of the government. The organisation has remained inactive due to lack of executive power to take actions on the defaulters.

Public Procurement

Nepal has put in place Public Procurement Act and its Regulations to promote openness, accountability and transparency in the procurement of goods and services by state and non-state agencies either through tender or quotation. Furthermore, rules are more flexible in procurement for donor and loan-financed projects and for propriety goods. There is provision for formulating sector-specific norms in procurement within the given financial rules and regulations.

Financial Accountability

An annual estimate of revenue and expenditure is presented before a joint sitting of parliament and is approved only after the lawmakers have questioned and debated, and answers have been furnished by ministers regarding their ministries. Similarly, expenditures are kept within the sum authorised to be spent in the Appropriation Act.

Accountability and auditing

Government accounts are independently audited by the Auditor General's Office. Government audit is completed after the end of the fiscal year (usually within 12 months). The audit report is presented to the lawmakers in the Parliament. There is a Public accounts Committee in the Parliament which scrutinises the audit report of each ministry and government organisations. Public Account Committee has played an active role in recent years in correcting the huge misappropriation in government spending.

Despite having all these state-led accountability mechanisms in place, accountability organs of the state have not functioned properly because of political transition. Because of the priority of the state on peace process and drafting new constitution, the state has not been able to give proper attention towards promoting good governance and SAC. Therefore, existing state accountability mechanisms have not been functioning as expected though there is an increasing amount of importance about vertical accountability state mechanisms.

The need has been further realised also because of not having the local elections in Nepal since 2002. It has also been widely discussed and realised that SAc interventions must advocate rights of people at the same time capacity of the states also needs to be enhanced to respond to citizen demands.

Chapter 5

Enabling Legal Environment

Nepal has adopted and practiced various laws to promote accountability mechanisms. Due to the internet accessibility, innovations are being shared and tried at various levels in different sectors. Mainly, accountability mechanisms, such as public hearing, public audit, community score card, citizen report card, public expenditure tracking survey and many others are being practiced in Nepal. These tools have been appreciated by the Government of Nepal and also initiated creating enabling legal environment to institutionalise some of these through GGA and RTI Acts, public hearing/audit guidelines and directives.

The government institutions, such as the CIAA has been operating toll free telephone line - 16600122233 and the Governance Unit of the Prime Minister's Office toll free telephone line - 1111. These are some examples of how the Government of Nepal is providing access to general public through telecommunication to place their grievances to the public authorities. Similarly, RTI Act has put an obligation on public bodies for proactive disclosure of certain information on a quarterly basis. Following are some examples which reflect how Nepal has put in place some crucial legal frameworks to set the environment for promotion of SAC tools and initiatives.

Good Governance (Management & Operation) Act

Nepal is the first country to promulgate Good Governance Act (GGA) in the South Asia region in 2006. The guarantee of the right of citizen to good governance is one of the main objectives of GGA. It has made legal provision in relation to good governance by making public administration pro-people, accountable, transparent, inclusive and participatory. Now, the Act is supported by the several guidelines and directives, such as Simplification of Government Decision Directives 2008, Service Campaign Operation Directive 2008 and Social Security Programme Operation Directives 2008.

These above directives and guidelines intend to strengthen accountability mechanisms to enhance public service and delivery at various levels. The GGA specifies self-positional

responsibilities of civil servants and makes mandatory provision to keep citizen charter, provide mobile services, determine services fees on the basis of social justice, participation and ownership of people, setting up of governance reform unit in government agencies, conducting public hearing, managing grievances, pursuing information technology in practice, setting up monitoring and evaluation committee, and submission of annual report by the government agencies.

GGA ensures good governance by bringing into execution of the right of the citizens through transformation of administrative mechanism into service delivery accountability mechanism. It has formed the basis for executing administrative functions to maintain good governance. It has also guided to bear duties and responsibilities by the concerned minister, chief secretary, concerned secretary, head of the department, and office in-charge.

GGA also ensures transparency in all operations of budget, decision making process, and communication to all actors, coordination among line agencies and non-state agencies and in reaching the remote areas to focus on tangible benefits of the program at the local level. The provisions define roles and responsibilities of all actors and use a systematic programme implementation approach to increase accountability at all levels of service providers. It has also envisioned institutionalising public hearing, public audit, citizen report card and citizen charter to make public service delivery efficient. The law has also promoted citizen engagement in the local state building process. In addition to other things, GGA has especially focused on public hearing as tool to enhance SAC.

Legal Arrangement for Public Hearing & Public Audits

GGA has provisioned special arrangement to hold public hearings regularly by the front line government agencies to hear grievances, opinions and also suggestions for further improvements. The disadvantaged and deprived people are expected to participate in the programme and express their dissatisfactions in front of the responsible officers in districts as well as in the village. It is mandatory for the chief office-holder at regional, zonal, district and local level involved in the delivery of service to conduct public hearings with the purpose of making activities of the office fair and transparent. Public hearing is an effective means of providing a platform to the citizens to express their grievances and queries in front of service providers.

This has helped both service providers and citizens to make clear on the effectiveness of the public services. Past experience shows that the public hearing helps identify the community needs and aspirations as well. If the GGA and RTI Act are strictly complied with, these will serve the interests of the disadvantaged people. Table 1 shows an example of how the government procedure has recognised public hearing as an important tool for SAC mechanism.

Table 1: Provision for Social Accountability Mechanisms in Local Bodies' Block Grants Operation Procedures-2010		
VDC Blok Grants Operation Procedures	DDC Block Grant Operation Procedures	Municipal Block Grants Operation Procedures
VDC must organise at least one public hearing annually	DDC must organise at least two public hearings annually	Municipality must organise two public hearing annually
VDC should have citizen monitoring mechanism, social audit, public audit and citizen charter in place to reduce fiduciary risk	DDC should have citizen monitoring mechanism, social audit, public audit and citizen charter in place to reduce fiduciary risk and increase accountability	Municipality should have citizen monitoring mechanism, social audit, public audit and citizen charter in place to reduce fiduciary risk and increase accountability

GGA has also strongly mandated to use public audit tool to enhance transparency in development projects and accountability in leaderships. The local bodies like VDC, DDC and municipality are made mandatory to use public audits in the development projects above certain budget threshold. This tool is also useful in successfully completing a project, as it collects all stakeholders' views, complaints and suggestions after congregating them in one place to discuss income and expenses of the project before settling the final accounts.

Citizen Charter

The Good Governance Act 2006 and its regulations 2007 and the service Campaign Operation Guidelines 2009, any public body providing goods and services should post a citizen charter providing particulars information like service and nature of service provided by the office concerned. They must also reflect the process to be fulfilled by the service recipients for getting the service and documents required for that purpose. The time, fees and name of the section and concerned officer are to be clearly mentioned. They must also reflect complaints of service recipients, telephone numbers and priority of providing services. They also must show services which are compensated and not-compensated. This legal mandate has encouraged public bodies across the country to post citizen charters.

Grievance management

To hear the people, the complaint box should be placed at the visible place of every government agency to collect grievances relating to quality, effectiveness of the work carried out by such office and possible irregularities. General public are encouraged to drop their grievances in the complaint box. To ensure proper remedy of the complaint, the responsible officer will

have to open the complaint box in the presence of other officials in every three days, and if the grievances and suggestions are found to be reasonable, necessary steps will have to be taken to address grievances. Similarly, the law has also made a mandatory provision to have spokespersons and nodal officer at every public institution. And, to make free flow of information, it has also mandated for proactive disclosure of information through notice boards, press briefings and also through the websites.

Right to Information Act

The Right to Information (RTI) Act promulgated in 2007 has a number of progressive features. RTI Law guarantees right to information as fundamental right, subject to exceptions, contains broad definition of the public bodies, such as covering political parties and non-governmental organisations and mandates the establishment of the National Information Commission (NIC). Public bodies under the RTI Act are obliged to classify update and disclose information on a regular basis. The RTI Act also provides for a concrete list of information that is mandatory for public bodies to disclose proactively. As the RTI has been considered as the backbone for participatory democracy, without this people cannot effectively exercise their rights and responsibilities.

Chapter 6

Conclusion

Nepal has been at the political crossroads of state restructuring and new constitution making process. In this political transition, the country has been facing problems in securing rule of law, controlling corruption, strengthening good governance and also ensuring marginalised community's equitable access to public services. Though Nepal has put in place various accountability mechanisms by enacting laws/directives/ guidelines, lack of political will, limited resources and a decade long Maoist insurgency, institutionalisation of SAc interventions and mechanisms have not gone as expected.

Nepal government has put in place various constitutional bodies and oversight mechanisms to check government accountability and transparency. But the prolonged political transition has been creating negative impact on the functioning of such public oversight bodies and agencies as many of them are lying vacant for years due to political influence and brinkmanship. Political parties are monopolising the democratic space which, in fact, has led to creation of fragile and non-performing governance system in political transition.

At present, Nepal is passing through the political transition and is stuck in the political stalemate after the dissolution of the Constituent Assembly in 2011. Despite the prolonged political transition, there is still adequate space for SAc and good governance-related activities to happen in Nepal. Nepal has promulgated half a dozen good governance friendly directives/ procedures and put in place Good Governance (Management & Operation) Act, Right to Information Act, Public Procurement Act, Consumer Protection Act, Prevention of Corruption Act, among many other progressive legislations. However, there is no satisfactory implementation of these laws.

Use of SAc mechanism is relatively new concept to Nepal. Development partners working in Nepal have been contributing to some extent in promoting SAc tools at different levels. However, the support and resources have been limited to spread the practice of SAc tools down to the community level. The context is very important which ultimately determines the success or failure of such SAc initiatives. Context behind the success of hitherto practiced SAc

interventions in Nepal have relied on various factors, such as enabling socio-political environment, enough legal frameworks, supportive role of media, availability of resources, and cooperation from the government agencies and support from local CSOs, among others.

Majority of stakeholders consulted during the study said that Nepal has been enjoying media freedom and civil society activism which has played important role in putting pressure on state mechanism to be accountable towards the people. They also said that despite this pressure and vigilance, the state mechanisms are not getting effective and laws are not being implemented properly due to the on-going political transition. This has resulted in poor trust at the level of citizens in existing state institutions in ensuring transparency and accountability. Citizens relatively have high trust in media in its watchdog role over state functions and activities.

Many stakeholders and representatives from different sectors interviewed during the context analysis in Kathmandu and in districts expressed positivism that existing socio-political environment, role of media, CSO activism, flow of resources and prevailing rules and regulations still offer enough opportunity and space for the SAc initiatives/tools move further and bring expected results.

The relationship between a SAc intervention and context: what are the opportunities and barriers?

S. No.	Components of Context	Nature (Positive, Negative & Neutral)	Describe the Opportunities	Describe the barriers
1	Social	Positive	Critical and empowered	Poor understanding on SA interventions
2	Political	Positive	Play supportive role	Politically obsessed and give little value to social issues/ initiatives
3	Legal	Positive	Enough legal frameworks are put in place	Poor implementation
4	Government	Positive	Government is supportive and cooperative	Poor understanding on SA tools and mechanisms
5	Media	Neutral	Vibrant and active media sector	Lack of knowledge on SA interventions
6	CSOs	Positive	CSOs are free to pursue their agendas	Politically divided and manipulated
7	Judiciary	Positive	Active judiciary in public interest issues	Corruption within judiciary

Appendix I

Piloting Community Score Card (CSC) in Health Centres of Nepal

Background

The CSC is a participatory, community-based monitoring and evaluation tool which is being practiced by various CSOs in many countries. This tool enables citizens to assess the quality of public services, such as a health centre, school, public transport, water, waste disposal system and so on. It is used to inform community members about available services and their entitlements and to solicit their opinions about the accessibility and quality of these services. By providing an opportunity for direct dialogue between service providers and the community, the CSC process empowers the public to voice their opinion and demand improved service delivery.

The Ministry of Health and Population (MoHP) has been using social audit to seek clients and providers' feedback to local health facilities in the health sector. The World Bank, on the other, was very much interested in introducing the CSC to complement the social audit methodology. The World Bank under its Programme for Accountability in Nepal (PRAN), a three-year programme designed to provide practical training, action learning, and networking opportunities for developing building capacity of civil society and government actors to promote SAc in Nepal, took the initiative in close coordination with the MoHP. Under the financial support of the World Bank/PRAN, MoHP with support from National Capacity Building Institute (NCBI) agreed to pilot CSC in Nepal's health sector for the first time.

Objectives

- To provide conceptual clarity on CSC to the representatives of the Ministry of Health, Department of Health and other government agencies;
- To train select CSOs members of the proposed districts to enable them to conduct CSC in Health Posts in their respective Village Development Committees (VDCs); and
- To assess effectiveness and test the applicability of the CSC in Nepali context.

Brief Description of Health Post

CSC was piloted in 16 VDCs of four districts which were selected by the MoHP and District Public Health Office of the respective VDCs. The CSC was conducted in four VDCs of Doti district namely Lana kedareshwor Sub-Health Post of Lana Kedareshwor VDC, Simchour Sub-Health Post of Simchour VDC, Barpata Sub-Health Post of Barpata VDC and Pachnali Sub-Health Post of Pachnali VDC. Similarly, service centres in Dang district was Elaka Health Post of Manpur VDC, Primary Health Centre of Shrigaun VDC, Gadawa Health Post of Gadawa VDC and Rampur Sub-Health Post of Rampur VDC.

Likewise, Katahari Sub-Health Post of Katahari VDC, Lakhantari Sub-Health Post of Lakhantari VDC and Sanischare Sub-Health Post of Sanischare VDC, Primary Health Centre of Jurkiya VDC in Morang district were selected for piloting the community score card. In Rasuwa district, Safrubensi Health Post of Safrubensi VDC, Parchayang Health Post of Samarthali VDC, Laharepauwa Health Post of Laharepauwa VDC & Thambuchhet Health Post of Chilime VDC.

Orientation & Training on CSC

In coordination with the MoHP, the World Bank wanted to pilot it and show that the CSC is viable, cost-effective and better suited SAc tool in the Nepali context. Thus, to put the CSC to test in Nepali context, in particular to the health services, the CSC Orientation and Training was designed in collaboration with the MoHP with financial support from PRAN/the World Bank.

One-day orientation on CSC was organised on November 14, 2011 at Godavari, Lalitpur, Nepal. Two international facilitators, George Cheriyan and Om Prakash Arya from Consumer Unity & Trust Society were invited for short-term consultancy to provide orientation and training. During the orientation, there were altogether 53 participants including 16 heads of the health posts of 4 piloting districts (Doti, Dang, Morang and Rasuwa). Others included senior officials from the MoHP, the World Bank and CSOs in Nepal.

Similarly, a four-day Facilitator's Training was organised from November 15-18, 2011 with a purpose to prepare a pool of trained CSC facilitators from the local CSOs to pilot this SAc tool in the health sector of Nepal. Altogether 24 participants actively took part in training on CSC. They included 16 local CSO representatives from four piloting districts (Doti, Dang, and Morang & Rasuwa) and some staff members from PRAN-supported projects and institutions.

Piloting of CSC

As a part of the second phase of the training, the trained 16 CSO members from the 4 districts replicated and piloted the CSC at the sub-health posts in their respective VDCs. The conduct of CSC in health service centres was supervised and backstopped by trained facilitators to ensure that the CSC was implemented as per the accepted process and methodology. Officials

from the MoHP were also taken to Morang and Rasuwa districts to observe the entire process of the CSC pilot.

Though the piloting was a small initiative, it remained effective in reducing absenteeism in health service centers, improved punctuality of the office bearers, supply of medicines was smooth, brought changes in behavioural decency among service providers, and cleanliness and sanitation was also improved.

Appendix II

Questionnaire for Context Analysis

1. Is the country stable? What impact the history of the country has on the stability? Are there various groups those have an impact on the stability of the country? What are they and how do they influence?
2. Does the country exercises control over its territory? Are there geographical or other features which become barrier to the state control and communication?
3. What is the environment for an initiative to improve governance in the country? Does the country have vibrant democracy? How various actors in the country respond to democratic set up?
4. What financial and other resources are available to the non-state actors? Do they have enough support and freedom to exercise their activities?
5. How far do the political parties organise around programmes rather than individuals? What about the present coalition government? Why are they united?
6. There is a sufficient legal framework to support good governance? How helpful are they really? If not what are the reasons? What are the major reasons for establishing such legal framework?
7. To what extent are the various executives of the state constrained by law?
8. What is the state of civil society in the country? To what extent and how do they interact with formal and political structures?
9. How much transparent are the government procedures?
10. What are the major defects or core problems in order to achieve a state of governance?
11. What is the status of local elected government? Do they have enough powers to exercise?
12. How the local government and front- level service providers respond to the need of citizens?
13. Do they feel accountable towards citizens? Do they want to improve services for citizens?

14. What is the status of media? How free are they? What is the level of confidence in media?
15. To what extent the citizens exercise their voting rights and other rights?
16. What is the status of judiciary?

Appendix III

Stakeholders Consulted During Context Analysis

S. No	Names	Designation	Organisation
1	ShreeramPanta	Secretary	National Information Commission
2	BadriPokhrel	Joint-Secretary	Ministry of Health & Population
3	SherBahadur KC	Under-Secretary	National Vigilance Centre
4	Surendra Prasad Sigdel	Officer	Ministry of Health & Population
5	Tanka Aryal	Executive Director	Citizen's Campaign for Right to Information
6	TaranathDahal	Chairperson	Freedom Forum
7	Kedar Khadka	Chairperson	GoGo Foundation
8	ParshuramUpadhaya	Executive Director	National Association of VDCs in Nepal
9	MuktiRijal	Executive Director	Institute for Governance & Development
10	Kamal Pokhrel	Program Coordinator	Advocacy & Legal Advice Centre Transparency International Nepal
11	Chakra Biswokarma	Training Coordinator	Peace Corps Nepal
12	MadhavKarkee	Team Leader	Centre for International Studies & Cooperation

13	Anjali Thakali	Deputy Coordinator	Programme for Accountability in Nepal, The World Bank
14	Suva Bahadur Sen Oli	Former Lawmaker	United Communist Party of Nepal (Maoist)
15	Jaganath Kahtiwada	Former Lawmaker	Communist Party of Nepal (United Marxist-Leninist)
16	Chakra Bahadur Thakuri	Former Lawmaker	Nepali Congress Party
17	Manoj Rijal	Nepal Correspondent	Xinhua News Agency
18	Navaraj Chalise	Bureau Chief	Rajdhani Daily
19	Ram Datta Panta	Correspondent	Abhiyan Daily
20	Ram Prasad Dahal	Journalist	Image Channel
21	Krishna Subedi	Journalist	Himalpost Online News Portal
22	Pramod Giri	Senior Reporter	Annapurna Post Daily

Stakeholders Consulted in Morang District			
1	NavarajSubba	Officer	District Health Officer
2	Kedar Giri	Secretary	Village Development Committee, Katahari
3	SantoshGautam	In-Charge	Health Post, Lakhantari
4	KP Singh	Professor	Faculty of Science, Tribhuvan University
5	SomKahtiwada	Assistant Professor	Faculty of Culture, Tribhuvan University
6	Rishikesh Pokhrel	Secretary	Communist Party of Nepal (United Marxist-Leninist) District Committee
7	Hari Narayan Shah	Chairperson	Tarai-Madhes Loktantrik Party District Committee
8	Bhawani Sitaula	Programme Coordinator	Help Group for Creative Community Development

Stakeholders Consulted in Rasuwa District			
1	Gyan Raj Pandey	Local Development Officer	District Development Committee
2	Narayan Poudel	Supervisor	District Health Office
3	Enough Syangdan	In-Charge	Health Post, Safrubensi
4	Babu Lal Tamang	President	Civil Society
5	Sarada Acharya	President	NGO Federation District Chapter
6	Chowang Tshering	President Tamang	Communist Party of Nepal (United Marxist-Leninist) District Committee
7	BalaramGhimire	Reporter	Avenues Television
8	Kamal Acharya	Chairperson	Tejilo Sachetana Samaj

About CoPSA

Community of Practice on Social Accountability (CoPSA) is a strategic initiative for knowledge exchange in the area of Social Accountability among the countries of South Asia Region. This initiative is an outcome of realization of the need to anchor CoPSA where practitioners, innovators and other actors can utilise it for spreading, mainstreaming and institutionalizing the knowledge on social accountability.

In such a context ANSA-SAR entrusted Consumer Unity & Trust Society (CUTS) with the responsibility of being a regional anchor to integrate the experiences through creating a platform for the community to achieve the objective of nurturing and consolidating knowledge, experience, tools and lessons from various social accountability practices. This initiative have achieved substantial success in facilitating networking between various stakeholders, mainstreaming social accountability and integrate it into country/region specific work and developing depository of best practices on specific tools through various activities among the partners of ANSA-SAR and beyond.

It has a dynamic portal consisting of several IT tools to share hands on experiences in an on-going manner and face to face interactions, trainings, placements etc. for knowledge exchange in all the member countries. <http://www.copsa.in>

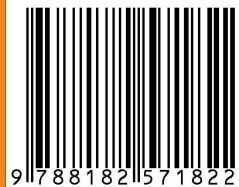
About CUTS

Established in 1983 as a voice of the poor to express their developmental needs and aspirations, CUTS International (www.cuts-international.org) is a leading Southern voice and face of consumer empowerment through its rights-based approach and activities for influencing the process and content of inclusive growth and development.

From consumer protection work in India, it has expanded its scope and interventions to subjects such as good governance and social accountability, trade and development, economic and business regulations including competition, investment and corporate governance issues, and human development, particularly women's empowerment.

With its headquarters and three programme centres in Jaipur, India, one in Chittorgarh, India, a liaison office in New Delhi, India and resource centres in Calcutta, India; Lusaka, Zambia; Nairobi, Kenya; Hanoi, Vietnam and in Geneva, Switzerland the organisation has established its relevance and impact in the policy-making circles and among the larger development community in the developing world and at the international level.

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