



UNDERSTANDING NEPAL'S PATHWAY TO PEACE, JUSTICE AND SOCIAL INCLUSION

Edited by:

Prakash Bhattarai

Shradha Khadka

Authors

Kalpana Rana Magar

Anish Khatri

Nishu Ratna Bastakoti

Krishna Deoja

Nitu Rauniyar

Designed by: Pratima Chhetri

Published Date : December 2024

Published by:

Centre for Social Change (CSC)

Gahana Pokhari Marg, Kathmandu-05, Nepal

www.socialchange.org.np

contact@socialchange.org.np

+977-9841370244

This knowledge book is the product of work done by several members of the Centre for Social Change (CSC) team in various capacities. The information presented in this report were sourced from various organizational reports and academic publications.

This book publication is supported by **ifa/zivik (Institut für Auslandsbeziehungen), German Federal Foreign Office.**

Copyright @ CENTRE FOR SOCIAL CHANGE, 2024. All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, including photocopying and recording or by any information storage and retrieval system without prior approval from the CSC.

TABLE OF CONTENTS

| | | |
|----------|---|-----------|
| 1 | Introduction..... | 1 |
| 2 | Fundamental Concept of Peace, Justice and Inclusion..... | 6 |
| 2.1. | Defining and Conceptualizing Peace..... | 7 |
| 2.2. | Defining and Conceptualizing Justice..... | 12 |
| 2.3. | Defining and Conceptualizing Inclusion..... | 17 |
| 3 | Nepal’s Journey of Peace, Justice and Inclusion..... | 23 |
| 3.1. | Historical Development of Conflict and Peace in Nepal..... | 24 |
| 3.2. | Historical Development of Justice System in Nepal..... | 31 |
| 3.3. | Current Status of Peace, Justice and Inclusion..... | 33 |
| 4 | Agenda for Peace, Justice and Inclusion..... | 53 |
| 4.1. | Agenda for Peace..... | 54 |
| 4.2. | Agenda for Justice..... | 63 |
| 4.3. | Agenda for Inclusion..... | 67 |
| | <i>References.....</i> | 73 |



CHAPTER I
INTRODUCTION

Peace
through
my eyes

Peace
through
my eyes

Chapter -1.Introduction

A country of incredible diversity, rich chronicles of the past and resilience in terms of socio-political revolutions and cultural and geographical amalgamation, Nepal over the years has taken commendable strides towards building peace, ensuring justice and creating an inclusive society. Especially recognizing its resurgence after enduring a decade-long violent conflict (1996-2006), the country entered a new chapter of hope and transformation with the adoption of a federal governance structure in 2015. However, it is important to assess whether the existing initiatives, institutional and policy frameworks align with this vision of possibilities. This is especially significant in the present context, given that federalism is a relatively new governance model for Nepal, demanding a deeper understanding of how well these efforts address the aspirations of its people within this evolving framework.

This handbook thus serves as a comprehensive one-stop reference for understanding the dynamics of peace, justice, and social inclusion in Nepal. This resource captures valuable insights and practical interventions focused on integrating the notion of peace, justice and inclusion in policy and practice at the local, provincial and federal levels and aims to explore these themes in greater depth, providing both contextual analysis and actionable pathways to ensure their effective realization across all levels of governance.

Looking back at the country's journey of over the past three and a half decades, Nepal has experienced profound socio-political changes in the realms of peace, justice, and inclusivity, characterized by democratic uprisings, governance conflicts, pivotal social movements, donor engagements, and government efforts. Moreover, within this span, the country has witnessed significant shifts from a 240-year-old history of Monarchy to a decade long internal armed conflict period where thousands of people lost their lives, thousands were internally displaced, with many still missing. The conflict started with an ideology of igniting a revolution after centuries of oppression and injustice disproportionately faced by several groups of the society. Subsequently, series of post-conflict events that followed, have aided the country to become a Federal Democratic Republic.

Reflecting on this course, Nepal's progression towards democracy has been extensive and tumultuous. The democratic movement in Nepal, initiated in the mid-20th century, marked significant milestones such as the Revolution of 1951 against the autocratic Rana regime, Jana Andolan (People's Movement) in 1990 for restoring multiparty democracy, the Second Jana Andolan in 2006 for restoring democracy and peace, and Madhesh movement in 2006 for reclaiming the identity and inclusion of historically marginalized groups in different state organs (Hangen, 2010). These movements were geared towards establishing a representative democracy, a multiparty political framework, and the abolishment of the Monarchy. The 2006 movement, in particular, culminated in the end of King Gyanendra's direct governance and the establishment of Nepal as a Federal

Democratic Republic.

Further on, Nepal's extended internal armed conflict from 1996 to 2006 between the government and Maoist rebels constituted a pivotal period of discord. The conflict was marked by violent confrontations, widespread displacement of civilians, and significant human rights violations on both sides. The signing of the Comprehensive Peace Accord (CPA) in November 2006¹ denoted the end of this conflict and set the stage for transformative political and social reforms. It brought hope for a peaceful resolution to the long-standing grievances and paved the way for a more inclusive and democratic Nepal.

Noteworthy social uprisings during this era also encompassed the Badi and Kamaiya Movements, Madhesh Movement, Tharu Movement, Janajati rights movement, Dalit Movement, Women's rights movements and many more. The Badi Movement, led by marginalized communities, vehemently opposed the prejudice and exploitation endured by the Badi community. They demanded equal rights, access to education, and an end to social discrimination. On the other hand, the Kamaiya Movement aimed to eradicate the entrenched system of bonded labor prevalent among the Tharu community. This movement highlighted the need for labor reforms, fair wages, and improved working conditions for the marginalized Kamaiya laborers. Likewise, the Tharu Movement was an outcome post emancipation of the former Kamaiya. Tharu community was protesting about the lack of provisions regarding federalism in the Interim Constitution (Fujikura, 2023).

Additionally, other crucial movements such as the three Madhesh Movements (2007, 2008 and 2015) have been influential to advance the rights of the marginalized Madhesi communities as well as in introducing federalism in Nepal.² The movements aimed to end racial and communal discrimination and naming the province on the basis of the identity of its population which the province was successful in doing so.³

Furthermore, numerous Dalit Movements were observed in Nepal with the appeal to establish a just and equitable society where all persons are entitled to live a life of respect, security and dignity. In this same context, Pashupati Temple Entrance Campaign in 1954 is considered as the most successful Dalit movement in the Nepalese history.⁴ This was a watershed moment for the community which led to a change in the way the members of Dalit community are perceived and paved a way for criminalization of caste-based discrimination.

Also, women's rights movement has gained momentum during all the political movements, and other simultaneous rights-based movements. The struggle for their rights has been translated into policies, laws, and regulations such as

1 CPA nepal.doc

2 Madhesh Movement in Nepal - Nepohits

3 DRCN-PSU-6Madhesh-Province-From-Movements-to-Implementation-of-Federalism-English-Version-February-2024.pdf

4 Nepal human rights history: Here are 6 key movements - OnlineKhabar English News

citizenships rights, laws on violence against women, reservation provisions, recognition of marital rape, property rights, reproductive health and rights, etc. However, the challenge lies in translating these policies into tangible actions and ensuring their effective implementation to bring meaningful change.

Despite these gaps though, these social movements played a crucial role in raising awareness about social injustices and advocating for the rights of marginalized communities in Nepal. They challenged the existing power structures and paved the way for a more equitable society. The aftermath of these movements saw a shift towards more inclusive policies and programs aimed at addressing historical inequalities and promoting social justice. The legacy of these movements continues to inspire activism and advocacy for human rights and social change in Nepal.

At the same time, the government has undertaken various initiatives to foster peace, justice, and inclusion. For instance, they have implemented programs aimed at promoting dialogue between different ethnic and social groups, creating platforms for reconciliation, and ensuring equal access to justice for all citizens. The CPA (2006) in this regard, not only emphasized the importance of inclusivity, but also highlighted the need for a democratic and forward-looking restructuring of the state. This restructuring involved the decentralization of power to reinforce local governments, allowing for greater representation and participation at the grassroots level.

Moreover, both the Interim Constitution of 2007 and the subsequent Constitution of 2015 include provisions that specifically addressed social inclusivity and the representation of marginalized demographics. These provisions were designed to ensure that historically marginalized groups, such as women, indigenous peoples, and Dalits, were given a voice in the decision-making processes of the country. Additionally, the government established the Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CIEDP) in 2015 to investigate and address the conflict era human rights violations. However, the journey towards achieving transitional justice has been slow, characterized by continuous efforts to uncover the truth, provide compensation, and bring justice to the victims of decade long armed conflict. Although Nepal has made significant progress in promoting inclusive governance by prioritizing the involvement and representation of marginalized groups in the political sphere, challenges still persist in fully implementing these inclusive policies and ensuring that all voices are heard. Issues such as ethnic tensions, widespread corruption, and economic disparities continue to pose serious barriers to the establishment of lasting peace.

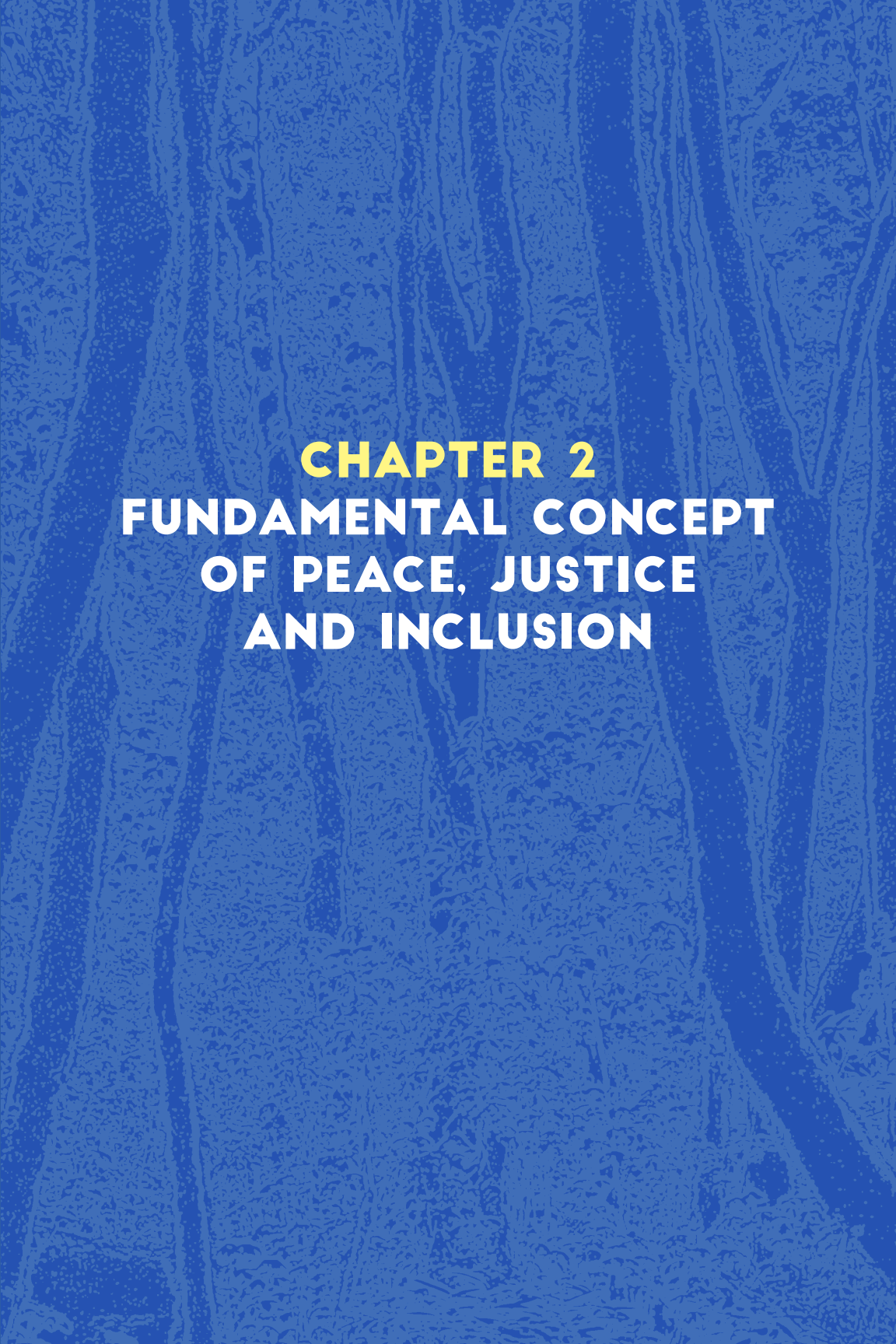
While the democratic movements, social uprisings, and government initiatives have all played crucial roles in driving the country forward, addressing the existing gaps and challenges is crucial for securing Nepal's future stability and prosperity. For the country, it is essential to learn from past mistakes, engage in constructive dialogues, and implement sustainable policies that promote justice and equality among all citizens. Only through continued dedication and collective effort can

Nepal pave the way towards a brighter and more harmonious future.

In this backdrop, this knowledge book is an attempt to provide an overview of the historical as well as current context from the lens of peace, justice, and inclusion. The book further presents a conceptual framework that enables readers to understand the interrelationships among peace, justice, and social inclusion in the Nepali context. It also captures and presents learnings from multiple practices, reflecting the status of peace, justice, and inclusion in Nepal. The book also analyzes existing policies, mechanisms, and other provisions that support efforts to promote peace, justice, and inclusion and identifies gaps, shortcomings and barriers, offering insights into how to overcome these challenges.

Furthermore, this book is designed to be a valuable resource for various stakeholders including policymakers and government officials, who can use it to guide policy formulation. Similarly, Civil Society Organizations (CSOs) may find it helpful for advocacy, human rights, and promoting gender equality. Also, community leaders dedicated to peacebuilding can gain insights, and scholars studying post-conflict societies can use it as a reference. Even the general public who are curious about the dynamics of peace, justice, and inclusion, will find it engaging and informative.

Despite the comprehensiveness of this handbook, it also falls short mainly in two aspects. First, this book provides a broad understanding of the topics rather than in-depth academic analysis. It encourages readers to delve deeper into the subjects through additional research and academic sources. Second, the book primarily uses secondary data, which includes information gathered from previously published academic as well as policy publications. This can limit the most current voice of the people at ground. These limitations highlight the need for readers to approach the book as a starting point for understanding the topics.



CHAPTER 2
FUNDAMENTAL CONCEPT
OF PEACE, JUSTICE
AND INCLUSION

Chapter -2.Fundamental Concept of Peace, Justice and Inclusion

This chapter provides a general overview of the basic theoretical concepts of peace, justice, and inclusion, therefore offering a foundational understanding of these interlinked pillars to creating a harmonious society. It will walk readers through peace not just as the absence of conflict, but also as the presence of systems that provide actual equity and address structural violence. It examines justice as the cornerstone for fairness, accountability, equality, and protection of rights for all individuals. And lastly, inclusion here is presented as a means of empowering marginalized groups and ensuring that their diverse voices are part of decision-making processes. Through this chapter, readers can obtain an understanding of key terminologies as well as unpack theoretical insights of core concepts of peace, justice and inclusion.

2.1. Defining and Conceptualizing Peace

At its narrowest, peace is often understood as the absence of war or overt violence, either between or within states. This interpretation emphasizes the cessation of armed conflict as the hallmark of peace. Yet, the broader concept of “positive peace,” championed by scholars like Johan Galtung, goes beyond mere absence of violence. It goes on to focus on creating conditions that eliminate the root causes of conflict, such as inequality and injustice (Galtung, 1976; Galtung 1969). Positive peace thus entails fostering of social justice, equality, and harmonious relationships between people, communities, and nations.

Historically, the concept of peace has evolved significantly, reflecting changes in global power dynamics and societal values. Traditionally, peace (from the Latin pax) was viewed primarily as a treaty or agreement that ended war. In modern contexts, peace is understood as a complex phenomenon that includes various dimensions such as circumstantial (a state without violence), temporal (a period before or after conflict), and emotional (a personal feeling of tranquility). In this way, peace can be both tangible and intangible, reflecting a range of relational and mental states. Some of the key stages in the evolution of peace include (Richmond, 2023):

- **Victor’s Peace:** In ancient and medieval times, peace was often imposed by victors after wars, focusing on domination and control. Treaties and truces were mechanisms to end conflicts temporarily, allowing victors to consolidate power.
- **Liberal Peace:** The Enlightenment period introduced liberal peace, built on democratic governance, human rights, and free trade. This era also witnessed the rise of movements for disarmament, labor rights, anti-slavery and pacifism. The liberal social contract—emphasizing constitutional peace—became central to promoting both domestic and international stability.

- **Institutional Peace:** The post-World War II period saw the emergence of international organizations (such as the United Nations, World Bank, International Monetary Fund, North Atlantic Treaty Organization) and various legal frameworks designed to govern state behavior, manage conflicts and promote cooperation. This institutional peace extended the liberal peace project by promoting human rights and development on a global scale.
- **Civil Peace:** During the modern era, peace expanded to encompass social justice, gender equality, and civil rights, advocating for the fair distribution of resources and opportunities across societies.
- **Realist Peace:** Amid growing political tensions in the modern era, a realist approach to peace, grounded in power politics and national interests, has often dominated international relations. This framework, while practical, has been critiqued for its focus on stability through strength rather than addressing underlying causes of conflict.
- **Emancipatory Peace:** In more recent years, peace has been reimagined in an emancipatory context, advocating for pluralism, inclusivity, and the redistribution of power and resources to the marginalized populations. This approach challenges traditional models of peace that are externally imposed and instead calls for locally driven & participatory processes.

Conceptualization of Peace

Richmond (2024) suggests nine primary methods through which peace can be conceptualized. These methods illustrate multifaceted approaches to peace that form the foundations for peace theories and practices:

Peace as an Internal-External Binary Definition

This perspective highlights the tension between the local and international definitions of peace. Local actors experience peace through their lived realities and cultural contexts, while international actors may impose standardized frameworks. This binary can lead to resistance or conflict when imposed peace frameworks clash with local needs.

Peace as a Hegemonic Act of Definition

Powerful actors, such as states or international organizations often define and impose their version of peace, reflecting their interests. This hegemonic process can marginalize local perspectives and create peace frameworks that do not align with the local realities.

Peace as a Bottom-Up or Top-Down Construction

This approach contrasts two methods of peacebuilding. Top-down methods involve external actors shaping peace through treaties and interventions, while bottom-up approaches emphasize local agency and indigenous knowledge. Effective peacebuilding often requires a balance of both approaches.

Temporal Concepts of Peace

Peace is understood in relation to time, with past, present and future dimensions. Historical peace may be viewed nostalgically or as flawed, present peace as fragile, and future peace as an ideal to be achieved.

The Geography of Peace

This concept divides peace and conflict into geographically distinct zones. While traditionally viewed as stable versus unstable areas, modern conflicts blur these boundaries, complicating efforts to impose peace.

Levels and Agents of Peace

Peace operates at various societal levels—civil society, state, and international. Each level involves different actors and concerns, reflecting the multi-layered nature of peacebuilding.

A Specific Logic of Peace

Different socio-economic, political or ideological systems offer unique pathways to peace. These include democratic peace theories, social welfare systems or international frameworks.

The Liberal Peace and Peace-as-Governance

Peace operates at various societal levels—civil society, state, and international. Each level involves different actors and concerns, reflecting the multi-layered nature of peacebuilding.

A Specific Logic of Peace

Different socio-economic, political or ideological systems offer unique pathways to peace. These include democratic peace theories, social welfare systems or international frameworks.

The Liberal Peace and Peace-as-Governance

This contemporary approach integrates reforms in governance with liberal values, seeking to extend democratic and market-oriented principles into conflict zones. It often faces criticism for imposing external values and struggling with local realities.

Peace as Emancipation: Counter-Discourses

This framework critiques traditional peace models as tools for hegemonic strategies. It emphasizes the need for inclusive dialogue and local agency, challenging universalized notions of peace.

The conceptualization of peace involves several important perspectives. Philosophically, peace is often seen as an ideal, universal moral order that is challenging to achieve. Simultaneously, positivist approaches aim to establish a basic level of order through scientific methods, while post-positivist views focus on overcoming hegemonic and marginalizing forces, highlighting the need for an understanding of peace as a complex and hybrid construct. Also, the prevailing liberal peace framework which integrates institutional, political, economic and social elements, often masks underlying power dynamics and assumptions. This framework, evolving from historical “victor’s peace” and institutional discourses, illustrates a blend of conservative, liberal and regulative tendencies. The concept of “virtual peace” further highlights the discrepancy between the idealized, externally imposed peace and the often superficial, ineffective reality on the ground, driven by Western-centric approaches. On this matter, Richmond (2024) argues for a more inclusive and context-sensitive understanding of peace to address these challenges.

Positive Peace vs. Negative Peace

Positive peace, as discussed previously, is a concept that goes beyond the mere absence of conflict or direct violence. While ‘negative peace’ is defined as the cessation of direct violence or war, positive peace encompasses a broader and more comprehensive approach. It involves not just the absence of conflict but

also the presence of conditions that foster a just, equitable, and sustainable society (Galtung, 1996). Positive peace addresses the root causes of conflict and aims to create a more enduring and inclusive form of peace.

Influential thinkers and activists have shaped the theoretical foundations of positive peace; Jane Addams, for example, expanded the notion of peace beyond the mere absence of war to include “positive ideals of peace,” which incorporate social justice and equity. Martin Luther King Jr. further developed this idea by advocating for “love and justice” as essential components of peace. Equally importantly, Johan Galtung, a prominent peace scholar, defined positive peace as the presence of “symbiosis and equity in human relations,” highlighting the importance of addressing structural and relational aspects of peace (Galtung, 1976; Galtung 1969).

Moreover, positive peace is characterized by four interconnected domains: nonviolence, social justice, environmental sustainability, and positive relationships (Standish, Devere, Suazo, & Rafferty, 2022).

- Nonviolence, rooted in Gandhian philosophy, is both a personal and collective practice of avoiding harm and fostering peaceful interactions. It embodies the principle that peaceful means must be used to achieve peace, reflecting Gandhi’s notion of “ends and means thinking.”
- Social justice involves promoting inherent human dignity, rights, and freedoms. A socially just society ensures equitable treatment and opportunities for all individuals and groups, contributing to a stable and fair social environment.
- Environmental sustainability addresses the need for a balanced relationship between humans and nature, advocating for practices that support the health and survival of both human and natural ecosystems. The unsustainable patterns of resource use, prevalent since the Industrial Revolution, highlight the urgency of this component.
- Finally, positive relationships encompass fostering supportive, caring, and equitable interactions among individuals and communities. This involves creating environments where mutual respect and cooperation are prioritized.

Positive peace thus integrates inner peace (personal tranquility), outer peace (social and cultural stability), relational peace (constructive interpersonal interactions), and environmental peace (sustainable interactions with the natural world). By addressing the root causes of conflict and promoting a holistic approach to peace, positive peace aims to create conditions where all forms of life can thrive harmoniously.

2.2. Defining and Conceptualizing Justice

Justice is a multifaceted concept that encompasses various interpretations, often focusing on fairness in relation to others, the enforcement of legal standards, and the overall quality of life within a community. Justice is a strong reason to accept or reject individual actions, laws, and public policies and is not only about achieving an outcome, but also an emotional and personalized experience. What feels just to one person, or a group might feel profoundly unjust to another, deeply rooted and influenced by lived experiences, embedded perceptions and personal feelings.

Justice is a concept of ensuring fair and equitable treatment of all individuals, based on a system of moral principles and rules that govern society. It involves the maintenance and administration of what is just, through an impartial adjustment of conflicting claims or the assignment of merited rewards and punishments. At its essence, justice involves principles of fairness, equality, moral integrity, legality, and social order. It seeks to answer questions like “What are people owed?” and “What makes a punishment just?” Through these inquiries, justice becomes an integral part of our human experiences, shaping our relationships and harmonious societal structures (Soken-Huberty, 2023) that is crucial for maintaining peace. It is also essential to note that neglecting serious violations can foster a culture of impunity that leads to further abuses and forms of injustices. The significance of justice is often underestimated when addressing conflict resolution and the pursuit of lasting peace but upholding this notion can provide both immediate and long-term benefits, whereas neglecting it may have dire consequences for lives and stability.⁵

Hence, justice is not merely a legal concept; it is experienced through the quality of relationships and interactions within society. Thus, comprehensive approach to it, must address broader social, economic, and political inequalities to foster a sense of fairness and inclusion, prevent conflicts and promote sustainable peace among all community members.

Evolving Concepts of Justice

The concept of justice has evolved through the interaction of civil society, the development of legal systems, and philosophical and moral theories. In Egyptian law, justice focused on maintaining harmony and preventing chaos. Severe punishments were imposed for crimes like murder, tomb-robbing, and rape. The king served as the supreme judge, with local courts addressing property disputes. The legal system followed a guilty-until-proven-innocent principle, ensuring strict penalties for false accusations. Similarly, Confucius emphasized justice as ethical behavior and the maintenance of social hierarchies, reflecting his belief in the natural inclination of humans toward virtue (Qiyong, 2013). Early Greek philosophers like Plato and Aristotle viewed justice as a balance and harmony between conflicting elements within individuals and communities.

Plato defined justice as each person fulfilling their responsibilities according to their abilities, thereby contributing to society in a proportionate manner (Mau-rya, 2021).

As Western thought progressed, various theories emerged regarding the foundations of justice. These included natural law, social contract theory, and utilitarianism. Modern interpretations have introduced frameworks such as distributive justice—focused on fair resource allocation and rooted in equality. Furthermore, retributive justice is centered around penalizing wrongdoing and restorative justice is aimed at addressing the needs of both victims and offenders. These evolving ideas reflect humanity’s ongoing quest to define and realize justice in society.

One influential thinker in this discourse is John Rawls (1921-2002), who proposed that without external influences, individuals would not favor one group over another. He posited two fundamental principles of justice: the first asserts that everyone possesses equal basic liberties that cannot be infringed upon unless they encroach on another’s freedoms. The second principle emphasizes equality of opportunity in both private and public offices, alongside equitable distribution of wealth. For Rawls, a just society must strive to minimize inequalities as much as possible; he termed this theory “justice as fairness.” His ideas have significantly shaped academic discussions around social justice and human rights, influencing policymaking processes.

This historical overview illustrates the complex landscape of justice as it has evolved through different cultures and philosophies, highlighting its foundational role in shaping societies and guiding human interactions. Each interpretation offers valuable insights into how we understand fairness, equity, and moral responsibility today.

1. Retributive Justice: Retributive justice is based on the term retribution, meaning to seek punishment or vengeance.

Retributive justice, also called criminal justice, focuses on delegating punishment to fit the crime. It is based on the idea that when wrongdoing is committed, the wrongdoer should get a proportionate punishment. That doesn’t mean the wrongdoer should be subjected to exactly the same ordeal (i.e. if someone hits someone in the face, they don’t need to be hit back as their formal punishment), but it needs to be proportionate (Longley, 2022). Critiques argue that justice shouldn’t be personal or based on revenge and hence, retributive justice does not contribute to social harmony or reconciliation and also can end up harming innocent people or unfairly punishing certain groups over others.

2. Distributive Justice: Distributive justice is focused on the fair division of assets, resources, privilege, and powers within a society.

Influenced by the social contract theories, distributive justice focuses on the

TYPES OF JUSTICE



least advantaged. Distributive justice affects areas like income, wealth, fact that everyone is morally equal and hence advocates for benefits to support opportunities, jobs, welfare, and infrastructure. While the basic definition of distributive justice is clear-fair distribution- meaning all members of society receive equitable access to physical goods, services, and opportunities, the method of achieving it involves significant complexities involving societal values, priorities, and conditions which is the biggest downside of this justice system.

3. Restorative Justice: Restorative justice focuses on repairing past wrongs. It helps the victims of crimes, but it also wants to help offenders understand the harm they have caused.

Restorative justice was developed in the 1970s, though many of its tenets come from the Indigenous justice practices. The goal is repair, and unlike retributive justice, not punishment. It emphasizes repairing the harm caused by criminal behavior through reconciliation between victims and offenders. Engagement, accountability, cooperation, and community are all essential principles. Unlike retributive justice, restorative justice does not focus on what criminals deserve, but rather on what victims need to heal and what communities can do to prevent re-offending. As the name suggests, it aims to restore harmony in the community. However, the effectiveness of a restorative justice approach may depend on the willingness and readiness of both the offender and the victim to engage in the process.

4. Procedural Justice: Procedural justice is an approach to justice that emphasizes that a fair and unbiased procedure must be followed when serving justice to perpetrators.

This approach is concerned with making and implementing decisions according to fair processes that ensure “fair treatment.” It encourages rules to be impartially followed and consistently applied in order to generate an unbiased decision. The point of procedural justice is to ensure all members of a society feel that everyone gets a fair trial, and that their crimes or wrongdoings are proven in an unbiased assessment of the court or peers. It relates to the fairness of processes that lead to outcomes or decisions, in simpler terms- “innocent until proven guilty.” The argument is, if people believe procedures to be fair, they will be more likely to accept outcomes, even ones that they do not like.

5. Social Justice: Social justice refers to the creation of a society where equality and fairness are established.

Social justice combines theories of both procedural and distributive justice, and advocates for equality and fairness in society, addressing systemic inequalities. It aims to create a society where all individuals have equal rights and opportunities by dismantling the barriers and structures that lead to inequality. It also reaches for a society that is free from any forms of discrimination based on race, gender, sexual orientation, religion, and other factors. The four major elements of social justice include the following;

- **Equality and Equity:** Strives for fair treatment, opportunities, and advancement for all people while striving to identify and eliminate barriers that have prevented the full participation of some groups.
 - **Human Rights:** Ensures that individuals have access to fundamental human rights.
 - **Fair Distribution of Resources:** Advocates for the equitable distribution of wealth, opportunities, and privileges within a society.
 - **Dignity and Respect:** Recognizes the inherent dignity and worth of all individuals.
- 6. Environmental Justice: Environmental justice emphasizes the right to a safe and clean environment, addressing environmental inequalities.**

Environmental justice has two key ideas. First, it emphasizes that all people equally have the right to a safe and clean environment (Bullard & Wright, 2009), and ensures that all communities have access to a healthy environment without disproportionate exposure to environmental hazards. Second, it holds the notion that some people are inequitably affected by environmental degradation than others (Schlosberg, 2013). From these premises, it advocates for a position where the biggest polluters or environment exploiters have a greater responsibility to protect those who are most vulnerable to negative externalities of pollution.

7. Economic Justice: Economic justice is about the fair distribution of society's economic resources.

The theory of economic justice states that every individual must possess an equal opportunity to acquire the basic necessities of life, irrespective of their social, economic, or political status. It incorporates principles of distributive justice, requiring fair allocation of resources and opportunities, and of procedural justice, demanding that economic policies and institutions operate fairly and transparently. This approach advocates for equal opportunities for all to participate in, contribute to, and benefit from the economic system.

8. Criminal Justice: Criminal Justice encompasses the system of practices and institutions aimed at upholding social order by enforcing laws.

The primary goal of the criminal justice system is to maintain social order and protect citizens by deterring crime and punishing offenders. It also aims to rehabilitate offenders and reintegrate them into society as law-abiding citizens. The criminal justice system is typically divided into three main parts: law enforcement agencies, courts, and corrections. The system operates on principles of fairness and justice and its goal is to ensure that criminal procedures and laws are applied equitably and impartially while also protecting individuals' rights against abusive uses of government power.

9. Corrective Justice: Corrective justice is a principle of fairness that deals with the rectification of wrongs done to individuals.

Corrective justice is a legal and philosophical principle that focuses on rectifying wrongs done to individuals. It is rooted in the idea that when one party causes harm to another, there is a moral obligation for the wrongdoer to make amends. Corrective justice is foundational in various legal systems, particularly in tort law, where it informs how damages are assessed and awarded. Courts often rely on this principle to ensure that victims receive fair compensation that reflects their losses while holding wrongdoers accountable for their actions. It serves as a crucial mechanism for addressing individual injustices within legal frameworks, promoting accountability and moral responsibility among individuals while striving to restore balance in relationships affected by wrongful acts.

10. Global Justice: Global justice refers to justice at an international level. It explores the fair treatment of individuals regardless of their nationality or the nation they belong to.

Global justice seeks to create a fairer global society by addressing injustices that cross-national boundaries. It is an approach that emphasizes that all people, regardless of where they are from or reside, should have the same basic rights, protections, and opportunities. Global justice tends to be delivered on the international arena, such as in the UN or courts in the Hague, although it may also be achieved through bilateral treaties allowing countries to participate in one another's legal proceedings, or, through extrajudicial laws for crimes such as crimes against humanity. However, the implementation of global justice is complex, especially because it tends to challenge the sovereignty of nations and involve geopolitical maneuvering (Alexander, 2006).

2.3. Defining and Conceptualizing Inclusion

Normatively speaking, social inclusion is about social cohesion and its shared values. However, it is mostly used interchangeably with social exclusion. Some scholars argue that the concept of social exclusion can be traced to a late 19th and 20th century when Max Weber, a German political economist and sociologist defined exclusion as the attempt of one group to secure for itself a privileged position at the expense of some other group (Hills et al., 2002). This can be further traced to the 1970s French notion of *les exclus*—those excluded from the social insurance system (Hayes et al., 2008).

The word ‘inclusion’ was actually coined in the late 1980s to distinguish placement in the general education classroom with appropriate supports from placing a child into general education classrooms without any supports, a practice commonly referred to as “mainstreaming”, but today, inclusion is not just about children with disabilities.⁶ In the present context, inclusion is seen as a process of addressing and responding to the diversity of needs of everyone through increasing participation

in all field, cultures and communities, and reducing exclusion. The concept of social exclusion arose in France because of their emphasis on the importance to society of social cohesion (Silver, 1994).

These are further definitions provided by various institutions that can help us with understanding the concept of inclusion:

According to Organization for Economic Co-operation and Development (OECD), inclusion in terms of both processes (how decisions are made and who is included in that process and how and why) and outcomes (how wealth and prosperity are distributed and shared across a population and why) across gender, ethnicity, religion, class, and geography.

UN Department of Economic and Social Affairs (UNDESA) defines social inclusion as “the process by which efforts are made to ensure equal opportunities-that everyone, regardless of their background, can achieve their full potential in life. Such efforts include policies and actions that promote equal access to public services as well as enable citizen’s participation in the decision-making processes that affect their lives”.⁷

World Bank (2013) defines social inclusion as the process of improving the terms on which individuals and groups take part in society by improving the ability, opportunity and dignity of those disadvantaged based on their identity.

Similarly, as per the UN Sustainable Development Goal 16; it aims to foster peaceful and inclusive societies to support sustainable development, ensure universal access to justice, and establish efficient, transparent, and participatory institutions across all levels of governance. It plays a crucial role in advancing peace, justice, and effective governance worldwide. By emphasizing dialogue for conflict resolution, ensuring universal access to justice, and promoting transparent and participatory institutions, this goal contributes to building resilient and inclusive societies that are essential for sustainable development.

As defined by the World Summit for Social Development in Copenhagen (1995), an inclusive society is a “society for all.” This means that every individual has the same rights and responsibilities, and an active role to play within their societies. Differences such as race and ethnicity, gender, class or geography have no bearing on a person’s right to achieve their full potential in life. Instead, a socially inclusive society is one that is based on a mutual sense of belonging and respect (Develop Diverse, n.d.).

Definition provided by different agencies may differ from each other and the outlook of countries might differ on how they perceive inclusion, however the crux of it all is about providing equal and equitable opportunities to people from the most marginalized and backward communities. This is to ensure that a person can fully reach their potential and live a dignified life.

Various Facets of Social Inclusion

In every society, there are communities that are systematically excluded from participating in economic, social and political life and choices. These barriers arise from discriminatory ideas, beliefs and attitudes regarding race, gender identity, religion, sexual orientation and other factors. In this context, social inclusion revolves around fostering equal participation and opportunities for all members of society. The following are different forms of social inclusion (Develop Diverse, n.d.):

Gender Equality: Gender equality involves more than just ensuring that individuals of all gender identities have equal rights, responsibilities, and opportunities. It is about creating a society where individuals and groups can actively participate and benefit from socioeconomic progress, regardless of their gender identity. This means breaking down systemic barriers and challenging prejudicial biases like gender inequality. For example, in the workplace, gender equality can be seen in action when both men and women are given equal opportunities for promotion and pay raises based on their skills and performance, rather than their gender. It also means creating a work environment where all genders feel respected and valued for their contributions. Furthermore, in education, gender equality means providing equal access to quality education for all genders. This includes ensuring that girls have the same opportunities as boys to pursue higher education and enter traditionally male-dominated fields like STEM (science, technology, engineering, and mathematics).

We cannot overlook the integral members of our society when discussing gender issues. It is crucial to acknowledge that while the Constitution does uphold the human rights of the Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer (LGBTIQ) community, the absence of comprehensive census data on sexual minorities sheds light on the societal attitudes towards this marginalized group. The fight for their rights has been an ongoing struggle for decades. The struggle for equality and recognition has been a persistent battle spanning decades. Despite some progress in legal reforms and increasing visibility in media representation, pervasive discrimination and stigma persist in workplaces, healthcare settings, political arena and educational institutions. Besides, the lack of accurate data on the LGBTIQ population makes it challenging for policymakers to address the specific needs and concerns of this community effectively. Without reliable statistics, it is difficult to implement targeted interventions and allocate resources to support the well-being and rights of LGBTIQ individuals (TKP, 2022). It requires ongoing advocacy, education, and policy changes to create a more inclusive and equitable society for all individuals, regardless of their sexual orientation or gender identity.

Overall, achieving social inclusion and gender equality requires a concerted effort to address not only the overt discrimination faced by women and other marginalized genders but also the subtle biases and societal norms that perpetuate inequality. By working towards a more inclusive and equitable

society, we can create a world where everyone has the opportunity to thrive and contribute to the betterment of society.

Economic Inclusion: Economic inclusion is rooted in the belief that every individual should have equal opportunities to access secure and affordable financial services, empowering marginalized households and communities with the necessary tools to autonomously manage their incomes and assets lies at the core of economic inclusion. For instance, in rural areas where traditional banking services are limited, initiatives like mobile banking have been instrumental in providing financial services to underserved populations. This not only facilitates transactions but also promotes saving habits among individuals who previously had limited access to such opportunities. Moreover, when individuals from marginalized communities are given the chance to participate in skill-building workshops and entrepreneurial training programs, they not only enhance their own economic prospects, but also contribute to the overall economic growth of their communities. By fostering a culture of financial independence and self-reliance, economic inclusion can break the cycle of poverty and create a more equitable society.

In conclusion, economic inclusion is not just about providing access to financial services; it is about empowering individuals to take control of their financial futures and participate meaningfully in the economy. Through targeted interventions and inclusive policies, we can build a more inclusive society where everyone has the opportunity to thrive (Develop Diverse, n.d.).

Education: Inclusive education focuses on providing all children with equal learning opportunities, regardless of their race, ethnicity, or language. This encompasses individuals with disabilities, who should have access to quality education tailored to their specific needs, as well as lifelong learning opportunities for individuals of diverse ages and backgrounds. It goes beyond just providing access to education; it emphasizes the importance of creating an environment where diversity is embraced and celebrated.

For example, in a classroom setting, inclusive education means that students with disabilities are not only accommodated, but also fully integrated into the learning process. This could involve providing specialized resources, such as assistive technologies or individualized learning plans, to meet their unique needs. Moreover, teachers play a significant role in implementing inclusive practices by creating a supportive and inclusive classroom culture where all students feel valued and respected.

Furthermore, inclusive education extends beyond the classroom to encompass lifelong learning opportunities for individuals of all ages and backgrounds. This means that education should be accessible to everyone, regardless of their socioeconomic status or previous educational experiences. By promoting lifelong learning, individuals can continuously acquire new skills and knowledge to adapt to an ever-changing world (Develop Diverse, n.d.).

Inclusive education is not just about providing equal learning opportunities; it is about fostering a culture of diversity, equity, and inclusion in all educational settings. It is a multifaceted approach that requires collaboration among educators, policymakers, and communities to ensure that every individual has the chance to reach their full potential through education.

Digital Inclusion: Minimizing the digital divide stands as one of the paramount challenges in the current era of globalization. Digital inclusion revolves around ensuring that all individuals have equitable access to information and communication technologies. Facilitating full participation in the digital age is pivotal in advancing social inclusion. Achieving digital inclusion requires addressing various barriers that hinder equal access to technology. For example, in rural areas, limited infrastructure such as internet connectivity can impede individuals' ability to fully engage in the digital world. Additionally, disparities in digital literacy skills among different demographic groups can further widen the digital divide. Therefore, initiatives aimed at providing training and education on technology use are essential to bridge this gap. Moreover, financial constraints can also prevent individuals from accessing necessary digital tools. Government subsidies or community programs that offer affordable or free technology devices can help mitigate this issue. By ensuring that everyone has the means to access and utilize digital resources, we can create a more inclusive society where everyone can benefit from the opportunities presented by the digital age (Develop Diverse, n.d.).

Social Inclusion in the Workplace: Organizations bear the responsibility of cultivating an inclusive work environment for all employees, irrespective of factors such as race, gender, sexual orientation, age, or class. A socially inclusive workplace often attains heightened productivity levels and benefits from a broad spectrum of perspectives that enhance the organization's overall business performance.

Organizations play a crucial role in fostering an inclusive work environment that caters to the needs of all employees, regardless of their race, gender, sexual orientation, age, or class. By prioritizing social inclusivity, workplaces can experience a significant boost in productivity and leverage a diverse range of perspectives to drive overall business performance to new heights. When organizations actively promote diversity and inclusion, they create a sense of belonging among employees from different backgrounds. This sense of belonging can lead to increased employee engagement, motivation, and loyalty, ultimately translating into improved job satisfaction and retention rates. Additionally, a socially inclusive workplace encourages open communication and collaboration among team members, fostering creativity and innovation. Moreover, organizations that embrace inclusivity are better equipped to attract top talent from diverse talent pools. When potential employees see a company valuing diversity and creating an inclusive environment, they are more likely to view it as an attractive employer. This can result in a competitive advantage for the organization in recruiting and retaining skilled professionals.

Here are some strategies for fostering social inclusion (Develop Diverse, n.d.):

Addressing and Eliminating Biases: Unconscious biases frequently lead to differential and unfavorable treatment of certain individuals. To counteract and mitigate the adverse effects of biases, it is imperative to identify signs of bias through feedback, peer recognition, and transparency. For example, feedback mechanisms can include anonymous surveys where employees can provide insights on their experiences with bias. Peer recognition programs can also highlight instances of inclusive behavior to encourage positive interactions among colleagues. Transparency in decision-making processes can help uncover any hidden biases that may influence outcomes.

Inclusion Training Programs: Conducting inclusion training programs aids in pinpointing biases and addressing them more effectively. Diversity training serves as a potent tool for promoting respectful and constructive relationships. These training programs can include interactive workshops, case studies, and role-playing exercises to enhance understanding and empathy.

Incorporating Inclusivity Policies: Inclusivity policies, also known as equal opportunity policies, are pivotal in establishing an institutional framework that advocates for fairness, diversity, and equitable treatment. These policies delineate acceptable behavior, address unacceptable conduct, and outline procedures for handling potential issues. By actively engaging participatory methods in the policy-making process, it can be ensured that the policies reflect the diverse perspectives and needs of their people, leading to a more inclusive and supportive environment.

CHAPTER-3

NEPAL'S JOURNEY OF PEACE, JUSTICE AND INCLUSION



Chapter -3.Nepal's Journey of Peace, Justice and Inclusion

This chapter delves into the historical aspect of peace, justice, and inclusion in the context of Nepal. These fundamental pillars are intricately interconnected yet distinct entities that have significantly influenced the trajectory of the nation and its people. Readers can infer that Nepali society is resilient and has a quest for transformation as they navigate through the historical transitions and adversities. For instance, during times of political unrest, Nepali citizens have come together to demand accountability and transparency from their government, showcasing their unwavering commitment to creating a just society. The spirit of inclusion is evident in Nepal's rich fabric of cultures, languages, and traditions, where diversity is celebrated, and differences are embraced. Similarly, the sub-chapter on the current status offers an overview of the country's present situation and identifies areas where improvements can be made.

3.1 Historical Development of Conflict and Peace in Nepal

Nepal's history is nothing less than a rich tapestry woven from ancient civilizations, political changes, and diverse socio-cultural dynamics. From the rise of early kingdoms to the abolition of absolute monarchy and the establishment of a federal democratic republic, Nepal's journey is marked by numerous and at times sporadic political, social and cultural transformation, showcasing Nepal's resilience and adaptability in the face of various challenges.

As the country marches forward, understanding its roots and historical context can offer valuable insights into why Nepal stands where it does today. The timeline depicts an overview of historical conflicts and key milestones in Nepal's peace process.

The transition of Nepal from a state plagued by internal armed conflict to a relatively peaceful democracy is a story of resilience, social transformation, and political reform. The journey has been complex and multifaceted, shaped by historical grievances and ever-changing socio-political dynamics. The roots of conflicts in Nepal can be traced back to deep-seated issues such as poverty, inequality, injustice, governance failure, political exclusion and deprivation to fundamental human rights. Nepal's transformation is a powerful testament to series of struggles of its people-against autocracy, inequality and ethnic marginalization that culminated in the signing of the Comprehensive Peace Accord (CPA) in 2006. This transformation reflects both grassroots movements and elite-level negotiations, that are tightly woven into Nepal's socio-political history.

Nepal's path to peace began with the fall of the Rana oligarchy in 1951 which

ended over two centuries of hereditary rule. This ushered in an era of democratic aspirations, though the monarchy retained significant power. The subsequent introduction of the party-less Panchayat system in 1960 under King Mahendra represented a rollback of democratic gains, stifling political freedom and suppressing dissent.

However, this centralized, monarchical rule sowed the seeds of discontent, especially among marginalized groups, as it failed to address deep-rooted inequalities in land ownership, caste, ethnicity, and regional development. These grievances later fueled larger conflicts and began the Anti-Rana Movement in 1950s aimed for political reform and democratic governance (Joshi & Rose, 1966).

With the end of the 200-year Rana dynasty, the monarchy was reestablished in 1951. In 1959, parliamentary democracy was established, however within a year the parliament under B.P. Koirala ended with a royal coup in 1960 leading to 30 years of absolute monarchy.

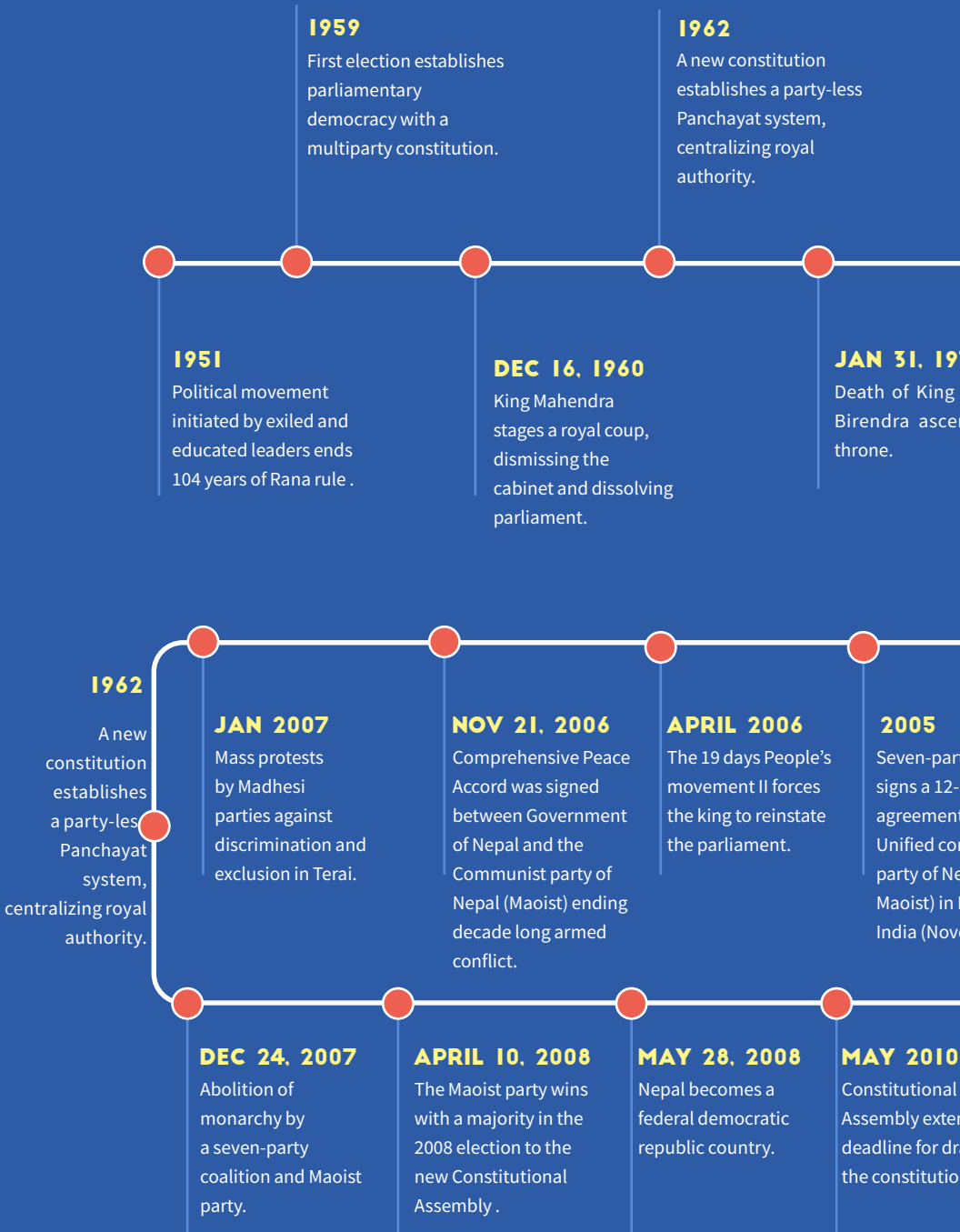
First People's Movement (Jana Andolan I) – 1990

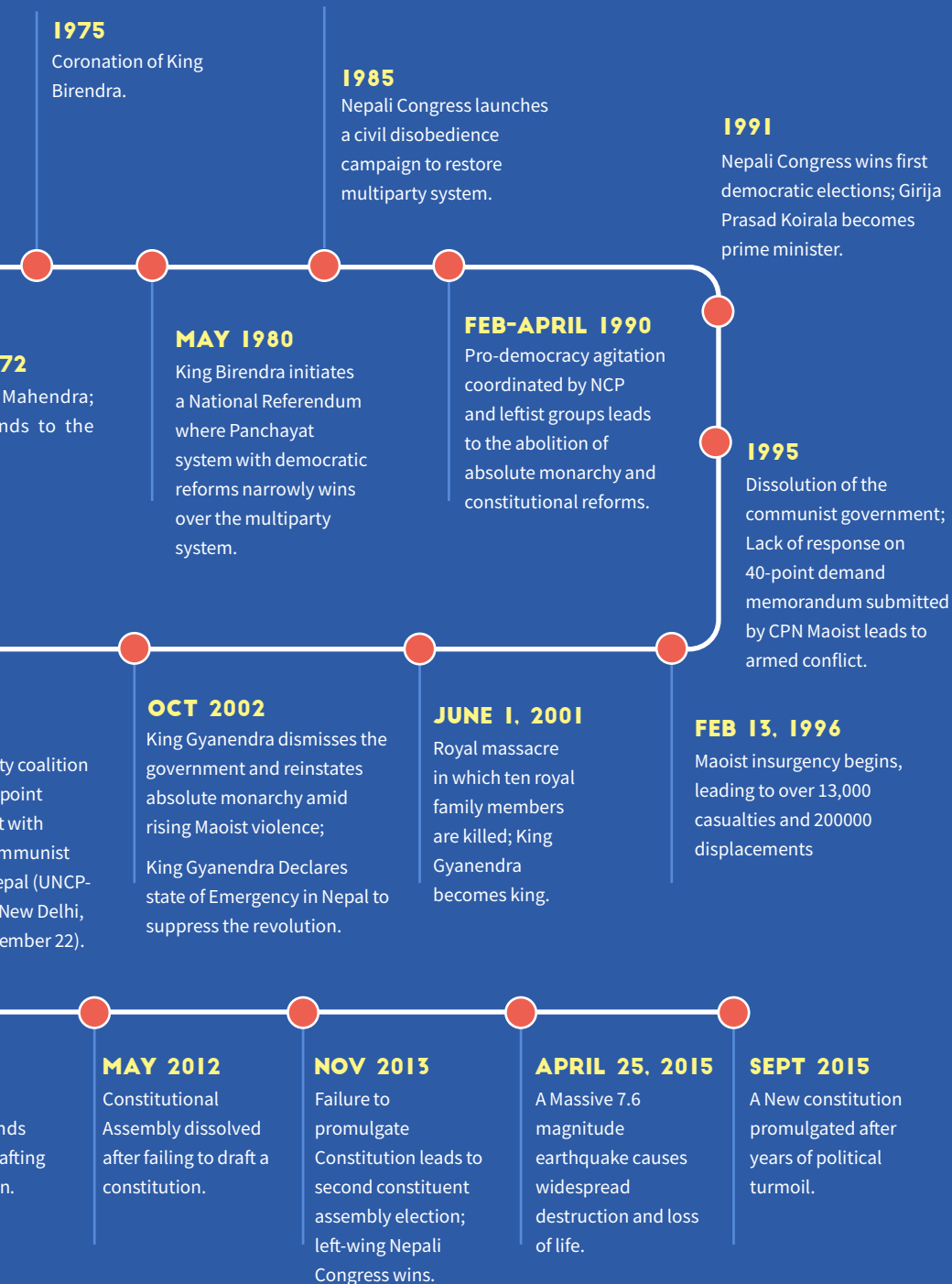
This movement was a popular uprising against the Panchayat system, which had restricted political freedoms and banned political parties since 1960. The movement was led by a coalition of political parties, primarily the Nepali Congress (NC) and the United Left Front (ULF), which included various communist factions. The successful overthrow of the Panchayat system resulted in the reinstatement of multiparty democracy and the promulgation of a new constitution in 1990, establishing Nepal as a constitutional monarchy (Hutt, 1991).

The Maoist Armed Struggle (1996-2006)

The Communist party of Nepal (Maoist) initiated an armed movement in February 1996, with the aim of overthrowing the monarchy and establishing a communist government. The war was seeking to end the socio-economic disparities and lack of political representation. The conflict adopted guerrilla warfare tactics against the government's security forces. According to United Nations Office of the High Commissioner for Human Rights (UNOHCHR, 2012), a total of 12,686 individuals, including government security forces, Maoist rebel fighters, and civilians, were killed between February 1996 and November 2006. relatively peaceful democracy is a story of resilience, social transformation, and political reform. The journey has been complex and multifaceted, shaped by More than 2,00,000 people were displaced and more than 1,350 disappearances historical grievances and ever-changing socio-political dynamics. The roots added to it. The armed conflict not only highlighted the urgent need for reform but also galvanized various segments of society to demand change.

Figure 1: Historical timeline of political events in Nepal 2023





Source: History of Nepal: From Ancient Kingdoms to a Federal Republic (Khanal, 2023)

Royal Massacre and Political Crisis (2001)

The Royal Massacre in Nepal on 1 June 2001, was a pivotal event that led to significant political changes in the country. The assassination led to King Gyanendra ascending the throne but his reign was marked by unpopularity and political turmoil, as many viewed him as an ineffective leader amid rising dissatisfactions with the monarchy. His decision to dissolve the parliament in 2005 and assume direct control fueled public resentment, ultimately contributing to the abolition of the monarchy in 2008 and the establishment of a republic in Nepal. Many of his autocratic measures alienated the public and amplified calls for systemic change.⁸

People's Movement II (April 2006)

The second People's Movement, or Jana Andolan II, was a significant uprising against King Gyanendra's autocratic rule. It brought together the Maoists, mainstream political parties and CSOs under a shared goal: to end the monarchy and establish a democratic republic. This people's movement forced King Gyanendra to relinquish power and reinstate parliament. The success of this movement is considered a turning point in Nepal's history, as it led to negotiations with the Maoists and set the stage for peace talks.⁹

The Comprehensive Peace Accord (CPA)- November 21, 2006

The signing of the CPA officially marked the end of armed conflict. Nepal transitioned into a republic, and the Maoists became a political party. This agreement included provisions for disarmament, integration of Maoist combatants into the national army, and mechanisms for transitional justice. It aimed to address the grievances that had fueled the conflict and laid a foundation for democratic governance (United Nations, 2006). However, the scars of the conflict linger, with ongoing efforts to address human rights violations and achieve reconciliation.

Formation of a Coalition Government (2007)

Following the CPA, Nepal witnessed the formation of a coalition government that included representatives from various political parties, including the Maoists. This marked a significant departure from armed confrontation to political engagement. The new government was tasked with overseeing the transition

8 The Royal Palace Massacre, Rumours and the Print Media in Nepal (Chapter 1) - Political Change and Public Culture in Post-1990 Nepal

9 Section 1: Peace process | Conciliation Resources

to democracy and addressing pressing issues such as poverty alleviation and social justice.

Constituent Assembly Elections (2008)

In 2008, Nepal held elections for a Constituent Assembly tasked with drafting a new constitution. This was a historic moment that aimed to reflect the aspirations of all ethnic groups and ensure broader representation in governance. The assembly's work was crucial in laying down the foundations for federalism and inclusivity in Nepal's political framework. However, the drafting of the new constitution faced delays and opposition, particularly from Madhesi and Tharu communities, who demanded greater representation and autonomy.

Identity-based Movements (2007-2015)

From 2007 to 2015, Nepal experienced significant identity-based movements, particularly focused on the rights and recognition of marginalized communities. The Madhesh Movement was a prominent example, with two major waves occurring during this period. The first Madhesh Movement began in January 2007, driven by the Madhesi community's grievances over political exclusion, cultural marginalization, and demands for federalism and proportional representation in the Interim Constitution. Protesters sought recognition of their rights and greater autonomy, leading to some concessions from the government, which included amendments like increased number of electoral constituencies in the Madhesh region to address these issues (Bharti, 2024).

The second wave erupted in August 2015, following the promulgation of a new constitution, as they felt that the newly drafted version of the constitution did not adequately represent their interests. The constitution's provisions regarding citizenship and federal boundaries were particularly contentious, leading to widespread protests marked by violence and significant loss of life (Dhakal, 2018). The movement highlighted ongoing frustrations over historical marginalization and led to increased political mobilization among the Madhesi community, resulting in the emergence of new political parties advocating for their rights.

These identity-based movements significantly influenced Nepal's political landscape, emphasizing the need for inclusive governance and representation for marginalized groups. However, despite initial successes in influencing political discourse, these parties struggled to maintain their relevance in subsequent elections as internal divisions and power struggles emerged. The legacy of these movements continues to shape Nepal's political landscape, underscoring ongoing challenges related to inclusion and representation for marginalized communities (Dhakal, 2018).

Federalism and Representation (2008/2015)

The journey toward federalism in Nepal was marked by significant challenges and dissent, particularly surrounding the issues of representation and citizenship rights. The first Constituent Assembly (CA), formed in 2008, failed to produce a constitution due to disagreements over federal structures and the delineation of provincial boundaries. This dissatisfaction led to widespread protests and strikes, ultimately resulting in the dissolution of the CA and the election of a second CA in 2013.

The most intense discontent emerged after the promulgation of the new constitution in 2015. While it established Nepal as a federal democratic republic, communities such as the Madhesis and Tharus felt their concerns were inadequately addressed. Their grievances mainly included restrictive citizenship provisions, inadequate proportional representation, and contentious provincial boundaries. This discontent sparked significant protests and border blockades, severely impacting Nepal's economy by disrupting essential goods supply (Gyawali, 2018).

In response to these pressures, the constitution was amended in 2017 to address some of these concerns. Key amendments focused on:

- **Proportional Representation:** Ensuring greater representation for marginalized groups, including women, Madhesis, Dalits, and other disadvantaged communities.
- **Citizenship Rights:** Modifying provisions related to citizenship to facilitate access for children of Nepali mothers and foreign fathers, although some restrictions remained.
- **Provincial Boundaries:** While the amendments did not fundamentally alter the delineation of provinces, they allowed for future adjustments through political consensus.

The promulgation of the 2015 Constitution, despite its controversies, solidified Nepal's commitment to peace, federalism, and secularism. It also underscored the country's resilience in addressing challenges through dialogue and compromise.

In conclusion, Nepal's journey from a monarchy to a federal republic has been marked by significant conflicts and movements that have shaped its contemporary political landscape. The end of the Rana regime in 1951 initiated a brief period of parliamentary democracy, but this was quickly followed by a royal coup that reinstated absolute monarchy. The People's Movement of 1990 successfully challenged this autocracy, leading to a constitutional monarchy; however, the subsequent armed conflict from 1996 to 2006 revealed deep-seated socio-economic disparities and political suppression of public. The conflicts highlight how Nepal struggles with representation and equality among marginalized communities and the intercommunal tensions underscored the complexities of Nepal's multi-ethnic society.

As Nepal continues to navigate its post-monarchical identity, these historical milestones serve as critical reminders of the nation's resilience and the ongoing quest for inclusive governance and social justice.

3.2 Historical Development of Justice System in Nepal

The judicial system of Nepal holds a crucial role in maintaining justice and societal order within the country. It is a unique blend of traditional customs and modern legal principles, which reflects the rich cultural heritage and societal norms of Nepal. Understanding this intricate system is not only essential for legal professionals, but also for the general public, as it governs various aspects of daily life and influences social behavior.

Nepal's legal framework is characterized by a dual structure where customary and indigenous laws coexist alongside codified statutory laws. This coexistence is particularly significant in a nation where local traditions heavily influence community interactions and relationships. The Constitution of Nepal (2015), serves as the supreme law, establishing the rule of law and outlining individual rights, the separation of powers, and the independence of the judiciary.

Nepal's legal system is intricate and multifaceted, reflecting a unique blend of tradition and modernity. It is vital to grasp the fundamentals of this system to foster an environment of justice and order, which ultimately contributes to the nation's development and progress. By embracing the complexities of Nepal's legal landscape, individuals can actively participate in upholding the principles of justice and ensuring the continued evolution of the legal system in alignment with societal needs and global standards. The legal system in Nepal has undergone significant evolution from ancient times to the contemporary era, shaped by various influences and historical milestones. Initially, the legal framework was predominantly based on traditional customs and practices, often governed by local norms and mores. The code of laws during the medieval period, notably the "Mula-Karma," served as a primary legal document, integrating religious and cultural elements that guided the community's conduct (New York University School of Law, n.d.).

With the advent of colonialism in the 18th century, Nepal experienced substantial disruptions within its legal framework. The political landscape shifted, and the British influence began to permeate administrative and judicial structures. However, unlike many other regions in South Asia, Nepal maintained a degree of legal autonomy and did not become a direct colony. This autonomy, coupled with traditional practices, led to a unique blending of customary law with limited colonial legal principles (New York University School of Law, n.d.).

Unification of Nepal by King Prithivi Narayan Shah also helped in the systemization of judicial administration. In every district, a Kachari (court) was set up manned by Ditttha, Bichari, and Pandit. They decided cases in cooperation with Amali, the administrator in the district. Dharmadhakari was the highest judicial functionary

who either gave his final decision or submitted usually major and important cases, before the King for the final decision. He brought significant changes in the court organization in Nepal. He composed many courts of more or less quasi-judicial nature.¹⁰

The Muluki Ain, 2020 B.S. is main pillar of the Nepalese Legal system during the Rana regime more than a century. This is based on the supremacy of the prime minister's powers and principles of punishment are according to caste. Although, necessary amendments and modifications happened during the rana regime, the judicial reforms made by the Prime Minister Juddha Shamsheer in 1940 separated the judiciary from the executive branch of the Government, except at the higher level. Pradhan Nyayala then became the highest court of the land but not the final court since its decisions could be revised by the Prime Minister constituting himself as the court of last resort under established procedures. Any case decided by the Prime Minister, would be the end of litigation and the case could not be reopened. Thus, finality of the judgment was ensured.¹¹

There was major legal history in between the regime change, however the major turning point for Nepal's legal system occurred in the 1990s with the establishment of democracy. The 1990 People's Movement (Jana Andolan) culminated in the promulgation of a new constitution, which provided significant legal reforms. This marked the transition towards a more formalized legal system that emphasized human rights, rule of law, and access to justice. Subsequently, the constitution served as the cornerstone of legal development, leading to the establishment of various laws and institutions aimed at promoting justice and equality.

In the same context, the article 4(1) of the Constitution of Nepal, 2015 states Nepal as an independent, indivisible, sovereign, secular, inclusive, democratic, socialism-oriented federal democratic republican State. Nepal's legislature abolished the monarchy in 2008; the country has been a Federal Democratic Republic State since then.

Nepal held Constituent Assembly (CA) elections because the first CA, elected on 10th April 2008, failed to draft a new constitution within its term. The first CA was dissolved on the 28th of May 2012 after four years and four extensions of time without managing to agree on a new constitution (Gellner, 2014). There were several reasons behind this failure. However, the main reason is the inefficiency, inadequacy of the political parties and their tug-of-war for power that resulted in the failure. After extending its lifespan from two years to four, the first CA could not come to a consensus on some significant issues like that of federalism (Gyawali, 2014). The roles of the CA members should have been in formulating the constitution, however, they were reduced as pawns of the political parties and could not perform the main roles that they were supposed to perform. When the power was transferred from the monarchy to the people, it was a real test of the politicians to ensure the values of democracy. They failed miserably to gain the trust of the Nepali citizens and institutionalize constitutionalism. Similarly, there

10 Research Guide of the Legal System of Kingdom of Nepal - Globalex

11 Ibid.

was a lack of effective communication and discourse among the political parties and stakeholders, which hindered progress of promulgating the constitution. Thus, it is safe to say, the CA and the constitution writing process from 2008–2012 operated in a non-democratic, non-transparent, non-inclusive and unaccountable manner (Martin Chautari, 2013).

The second CA election was held on 19th of November 2013 which successfully promulgated the new constitution on the 20th of September 2015. After nearly a decade of deliberation the 2015 Constitution emerged with its vision of Nepal as an inclusive and democratic state with a federal structure, broad-based prosperity and an inclusive society. It explicitly guarantees non-discrimination on grounds of origin, religion, race, caste, tribe, sex, economic condition, language, region, ideology or other similar grounds.

The Constitution (2015) enforces the doctrine of separation of powers, delineating the state into three branches – executive, legislature, and judiciary – each endowed with distinct and autonomous authorities and domains of jurisdiction to prevent any overlap or conflict among them. Despite the parliamentary system in place, there exists a close interconnection between the executive and legislative branches, even though they function as two separate entities of the state. The judiciary upholds the constitutional distribution of governmental responsibilities among its unique branches and constrains any single branch from encroaching upon the fundamental functions of another (Adhikari, 2016).

The Constitution (2015) recognizes three types of courts: Supreme Court, Appellate Courts and District Courts as part of an integrated judicial system. These are supplemented by local judicial bodies – judicial committees, local courts, quasi-judicial bodies and mediation centers – with varying mandates to either settle disputes or apply alternative dispute settlement methods.¹² District courts and subsequent higher courts hold the right to hear appeals emanating from local judicial bodies thus establishing linkages between the integrated judicial system and local judicial bodies (Constitution, 2015).¹³

3.3 Current Status of Peace, Justice and Inclusion

Status of Peace

According to the Institute for Economics and Peace (2024), Nepal ranked 80th out of 163 countries on the Global Peace Index,¹⁴ placing it in the “medium peace” category. Similarly, Nepal ranked 113th on the Positive Peace Index¹⁵, also

¹² Art. 127 (2) Constitution of Nepal, 2015.

¹³ Art. 151 Constitution of Nepal, 2015.

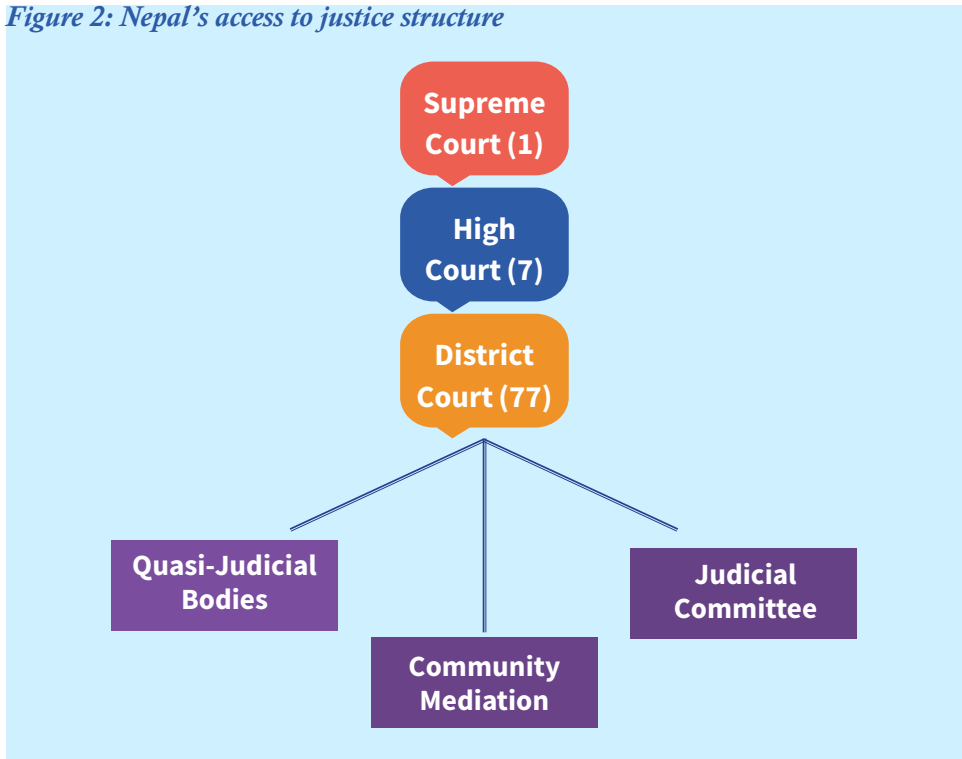
¹⁴ Global Peace Index measures the peace in the scale of 1-5, in 23 indicators that are categorized into internal and external peace indicators relative to a country. These 23 indicators include factors related to Ongoing Domestic and International Conflicts, Societal Safety and Security, and Militarization.

¹⁵ Positive Peace Index measures the positive peace in the scale of 1-5, in 24 indicators that are categorized into attitudes, institutions and structures. These 24 indicators include factors related to Low levels of

among 163 countries, indicating it is near the “low positive peace” category. Despite being a federal democratic nation, Nepal’s score on positive peace is comparable to those of countries with authoritarian regimes.

The figure below illustrates the trend in Nepal’s scores on both the Global Peace Index and the Positive Peace Index from 2015 onwards. For both indices, scores range from 1 to 5, with lower scores indicating a more peaceful status. While

Figure 2: Nepal’s access to justice structure

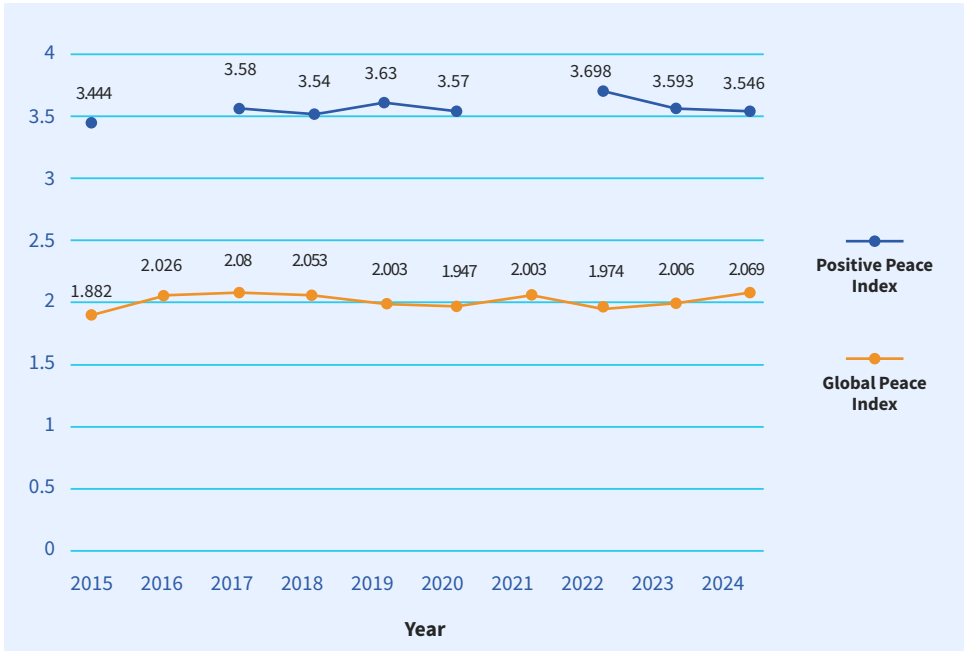


there have been some variations, the overall trend suggests that Nepal has not made substantial progress in becoming a more peaceful nation.

The 2024 reports attribute Nepal’s Global Peace Index score primarily to political instability, insufficient funding for UN peacekeeping missions, and involvement in external conflicts. Additionally, access to weapons, the level of violent crime, and political terror and perceived criminality in society also significantly contribute to Nepal’s score, highlighting ongoing challenges in maintaining internal security and reducing violence. Similarly, the high Positive Peace Index score is largely due to high levels of corruption, a weak business environment, poor relationships with neighboring countries and an inefficient government

Corruption, Sound Business Environment, Well-Functioning Government, Acceptance of the Rights of Others, Equitable Distribution of Resources, Free Flow of Information, Good Relations with Neighbors, and High Levels of Human Capital. These are also known as 8 pillars of positive peace.

Figure 3: Nepal's scores on the Global Peace Index and the Positive Peace Index



Source: An SDG 16 plus report, Nepal Planning Commission

The Human Rights Watch (2024) reports the transitional justice process in a descriptive manner. As a response to the supreme court's verdict in 2015, that stated that the existing legislation is unlawful primarily as it allowed amnesties to serious crimes under international law. This has resulted in the amendment of the Enforced Disappearances, Enquiry, Truth and Reconciliation Commission Act (TKP, 2024). After decades of stalling and confusion, this amendment has been welcomed by the international communities. Although, it is not devoid of criticisms from the National Human Rights Commission (NHRC), the victim's community and various human rights watchdog have expressed their reservation. There is certain condition that permits in reduction of the punishment of the accused (TKP, 2024).

Additionally, there have been dissatisfaction in the process of shortlisting the commissioners of the two committees namely; Truth and Reconciliation Commission (TRC) and Commission of Investigation on Enforced Disappeared Persons (CIEDP) (Ghimire, 2024). Political meddling is considered to be the main reason that the previous commissioners could not perform their duties. With the current shortlist it is quite evident that the experts have not been considered for the positions (Commissioned to fail, 2024).

Likewise, if we look at the available data on political violence, we can see that there is a trend which is mostly happening around the elections time or

whenever there has been a change in the government. In recent times, there have been events where political parties have gone on to display their power to their opposition which has disrupted the traffic and the lives of the public. With citizens being dissatisfied with the government and the political parties, it shows that the type of governance is not being appreciated by the people. There is an emerging trend of online political violence against women in politics (Online violence against women in Nepali politics rising: Study, 2024). As a result of an increased representation, we can see women and other marginalized members of the community in the forefront. Their meaningful participation in the decision-making process will make rapid changes. However, the increase in spewing hate online will not only belittle a person's dignity but it also undermines democratic participation and silences critical voices in public discourse. Therefore, there is a need to ensure that the digital space is as safe as the physical space for everyone.

Status of Justice

In the 2023 World Justice Project (WJP) Rule of Law Index, Nepal ranks 71st out of 142 countries, maintaining its position as the leader in South Asia. However, the country's score has declined, mirroring a global trend of decreasing rule of law for the sixth consecutive year. Fundamental rights have notably deteriorated, with a decline reported in 77 percent of surveyed countries, including Nepal. The World Justice Project (2023) report highlights a significant drop in civil justice scores across 66 percent of nations, while criminal justice scores have decreased in 56 percent. In Nepal, this trend is evident through increased delays in justice delivery and weakened enforcement mechanisms.

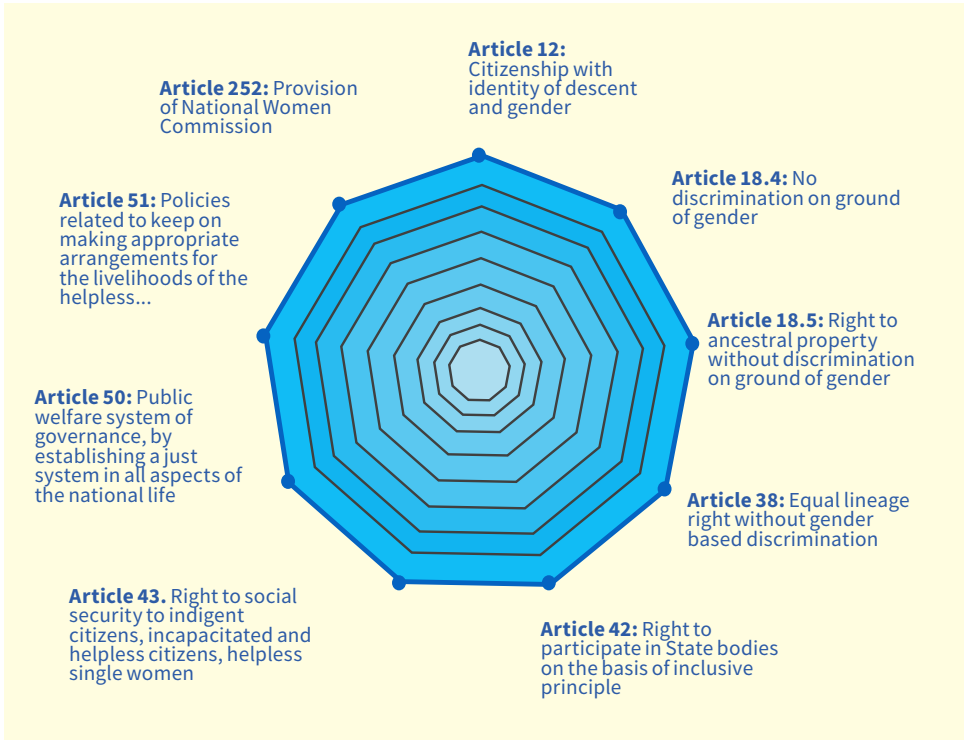
The backlog of unresolved cases remains a critical issue. According to the Supreme Court, over 4 million cases—including writ petitions, appeals, and special applications—were registered in the fiscal year 2022-23. Of these, approximately 33.55 percent, or 164,762 cases, remain unsettled. The execution of court judgments has also been unsatisfactory this year (INSEC Human Rights Year Book, 2023).

The Nepali judiciary's challenges stem from various factors, including a shortage of judges, inadequate infrastructure, and outdated legal procedures. The lack of timely judicial appointments and political interference further complicate the situation, leading to significant delays in case resolutions and undermining public trust in the legal system. Addressing these systemic issues is crucial for restoring confidence and ensuring timely access to justice for all citizens.

To build a just society, there is a need to have laws in place that guarantee the rights of the vulnerable and marginalized groups of the society. In this regard, the Constitution of Nepal (2015) incorporates provisions that are gender friendly and guarantees fundamental rights of a human. Figure 4 lists out the critical rights ensured by the Constitution of Nepal. They are; Article 12, that provides citizenship with the identity of descent and gender, Article 18.4 addresses no discrimination on the basis of gender, rights to ancestral property without discrimination on

the ground of gender is ensured by Article 18.5, equal lineage right to women without gender-based discrimination by Article 38, right to participate in state bodies based on inclusive principle by Article 42 and so forth. Also, as per the constitutional provision, Nepal Women Commission has been established as a constitutional body which is a great achievement from the previous Women Commission under the government.

Figure 4: Nepal's constitutional provisions related to gender



Source: An SDG 16 plus report, Nepal Planning Commission

Existing Justice Systems in Nepal and its Challenges

Formal Justice System

Nepal's formal justice system operates within a framework established by its Constitution (2015) and is characterized by a tiered court structure

Structure of the Formal Justice System

1. Court System

Nepal's judiciary is organized into three main tiers:

- **Supreme Court:** The highest court, which has appellate jurisdiction over the High Courts and extraordinary original jurisdiction.
- **High Courts:** These serve as appellate courts for decisions made by District Courts.
- **District Courts:** The first instance courts that handle both civil and criminal cases. They are empowered to try all cases under their jurisdiction, including petitions and appeals from local judicial bodies.

2. Legal Framework

The legal system has undergone significant reforms, particularly since the abolition of discriminatory practices in the 1950s. Current laws emphasize individual rights and rehabilitation, with provisions against prolonged detention without trial.

Gaps/Challenges

- Limited legal awareness, along with factors such as gender, caste, socio-economic status, geography, and language barriers, combined with extreme delays, have been reported as significant obstacles to accessing formal justice.
- Weak institutions plagued by a lack of transparency and accountability are further undermined by persistent political and economic interference, greatly reducing the effectiveness of the formal justice system.

Additionally, persistent issues related to the capacity of judicial institutions and accountability mechanisms have been identified. Reports indicate that the formal justice system is often slow and lacks transparency, eroding public trust and confidence in its processes.

Informal Justice System

The Informal Justice System (Danish Institute for Human Rights, 2012) encompasses various traditional and community-based mechanisms for dispute resolution, reflecting the country's ethnic diversity and historical context. Many informal justice mechanisms include community mediation committees and paralegal committees, which aim to facilitate conflict resolution without resorting to formal court proceedings. These bodies are particularly prevalent in rural areas, where they provide a more accessible and culturally relevant means of addressing disputes. There is an overarching preference for informal justice systems given their cost effectiveness, geographical proximity, swift decision making, and predilection for maintaining social cohesion.

Gaps/Challenges

- Deep-rooted patriarchal norms continue to severely impede women's access to justice, limiting their ability to seek redress or protection.
- Traditional attitudes, a lack of gender sensitivity among justice actors, and the absence of gender-responsive services are reported as major barriers preventing many community members from attaining justice.
- The politicization of informal justice mechanisms has compromised their integrity, undermining their effectiveness and fairness.
- Additionally, many informal mechanisms operate without adequate knowledge of Nepali law or human rights standards, particularly in serious criminal cases such as rape or murder, further exacerbating challenges in ensuring justice for victims.

Challenges of both Formal and Informal Justice

A significant challenge lies in the lack of implementation of decisions made by both formal and informal justice systems, undermining their credibility and effectiveness. Distrust and lack of confidence in the formal justice system have led to serious criminal cases, such as rape, being handled by informal justice actors. These actors often fail to adhere to Nepali law, human rights standards, or gender-sensitive approaches. In instances where justice has been perceived as inappropriate or disproportionate, tensions have persisted among victims of land disputes, sexual and gender-based violence, and theft, sometimes escalating to tragic outcomes like suicide or murder.

To enhance access to justice and positively impact local conflict dynamics, it is recommended to train informal justice actors and Judicial Committees on Nepali law and human rights standards to improve transparency and accountability. A zero-tolerance policy against economic and political interference should be enforced to protect the integrity of justice mechanisms. Additionally, raising citizen awareness about their rights and available legal mechanisms will empower communities to seek justice effectively. These measures will strengthen trust in justice systems, reduce grievances, and help address local conflicts more effectively.

After the Jana Andolan-I in 1990, the policy and practice of social justice in Nepal began to align with the principle of equality, which was largely based on the assumption of sameness. However, following the Jana Andolan-II in 2006, the public understanding of social justice evolved, emphasizing social equity, inclusiveness, proportionate representation, and participatory decision-making. These principles brought the issues of social equity and inclusiveness to the forefront of national discourse.

Despite this progress, Nepal continues to grapple with significant social and cultural inequalities and injustices rooted in caste, ethnicity, gender, language, religion, culture, and geography. These challenges are compounded by class-based economic disparity, which remains a pervasive issue. The hierarchical and highly stratified structure of Nepalese society has perpetuated socio-cultural exclusions and discrimination against marginalized groups, such as women, Dalits, Janajatis, Madhesis, and the poor, denying them equitable access to resources and opportunities.

Addressing these issues, President Ramchandra Paudel, in his keynote address at the 112th International Labour Conference and the Inaugural Session of the Global Coalition for Social Justice in Geneva, reaffirmed Nepal's commitment to advancing social justice. He highlighted the country's constitutional dedication to ensuring equal rights, opportunities, and treatment, in alignment with the principles of the International Labour Organization (ILO). "Our collective effort to achieve sustainable peace through social justice is as relevant today as it was a hundred years ago. Sustainable peace cannot be achieved without justice and economic gains for the poor and downtrodden," he stated.

President Paudel further underscored Nepal's active engagement in combating child labor, forced labor, and modern slavery through its involvement in the 8.7 Alliance. He also highlighted Nepal's role as a pathfinder in employment and social security during the just transition and emphasized the importance of implementing Nepal's Decent Work Program (2023–2027), which focuses on employment, rights, and social dialogue.¹⁶ These initiatives reflect Nepal's continued commitment to social justice as a foundation for sustainable peace and equitable development.

Status of Inclusion

In the context of Nepal, the very essence of inclusion is incorporated in the Constitution of Nepal. We can refer to the preamble of the Constitution (2015) which states, that the foundation of our society is to be built on the principles of proportional inclusion, participation, and protection and promotion of social, cultural solidarity, tolerance, and unity in diversity. Resulting in a just society, ending all forms of discrimination, oppression and enhancing economic equality.

In order to achieve the Constitutional objective of inclusivity, the Government of Nepal (GoN) implemented a range of policy initiatives and schemes to advance social inclusion through its Fourteenth Three-Year Plan (2073/74–2075/76) (NPC, 2017), with a focus on mainstreaming gender equality and social inclusion (GESI) as fundamental overarching policies. The Fifteenth Five-Year Plan (2076/77–2080/81) (NPC, 2020) now strives to end all forms of discrimination, poverty, and inequality by revamping systems and institutions to enhance the capacity of individuals and groups in accessing resources and opportunities. In

this context, several government ministries have employed GESI approaches to ensure active participation of women, the impoverished, Dalits, Adivasi Janajatis, Madhesi, Muslims, and other historically marginalized groups in the formulation, implementation, monitoring, and assessment of plans, policies, and programs that impact them. Consequently, the inclusion of all marginalized groups and individuals in the country's social, cultural, economic development, and political processes is now a top priority.

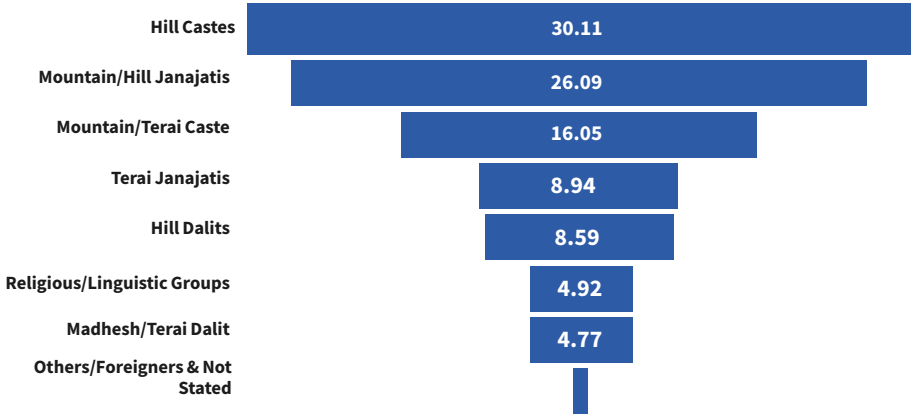
Likewise, there are further provisions in the constitution that elaborate on the forms of inclusion. Since, Nepal is a diverse nation with about 142 ethnicities and 124 languages spoken throughout the country (CBS, 2021). There are articles that identifies the languages of various ethnic communities as the mother tongue and the Nepali as the national language. The constitution has established several commissions that are constitutional organs, who are independent and assist in guaranteeing the rights of the citizens. Some of them that contributes to ensuring peace, justice, and inclusion are; National Women Commission, National Dalit Commission, National Inclusion Commission, Indigenous Nationalities Commission, Madhesi Commission, Tharu Commission and Muslim Commission, and the National Human Rights Commission. The appointment of the commissioners to these constitutional bodies are made on the basis of principle of inclusion (Constitution, 2015).

Additionally, other crucial guaranteed fundamental rights are (Constitution, 2015); right to life with dignity, freedom, equality, communication, justice, property, freedom of religion, information, privacy, language and culture, employment, labor, clean environment, education , health care, food, housing, social justice, social security and constitutional remedy, rights against exploitation, torture, preventive detention, untouchability and discrimination and exile, and rights of women, children, Dalits, senior citizens, consumers and victim of crime. In addition to these rights, there are legal provisions of affirmative action for the empowerment, and protection of the marginalized members of the communities like women, Dalit, indigenous, Madhesi, Tharu, Muslim, oppressed class, minorities, youth, children, senior citizen, gender and sexual minorities, persons with disabilities, backward region, etc.

Nepal is ethnically rich and diverse South Asian country. The National Population and Housing Census (2021) reported that 142 castes/ethnicities live in Nepal, 124 mother tongues are spoken, 25 languages are being used as second language and 10 major religions are being followed. A total of 60 belongs to indigenous group, comprising 34.87 percent of total population (Indigenous Nationalities Commission, 2080). There are 2 advantaged groups, 10 endangered groups, 12 highly marginalized groups, 20 marginalized groups, and 15 disadvantaged group.

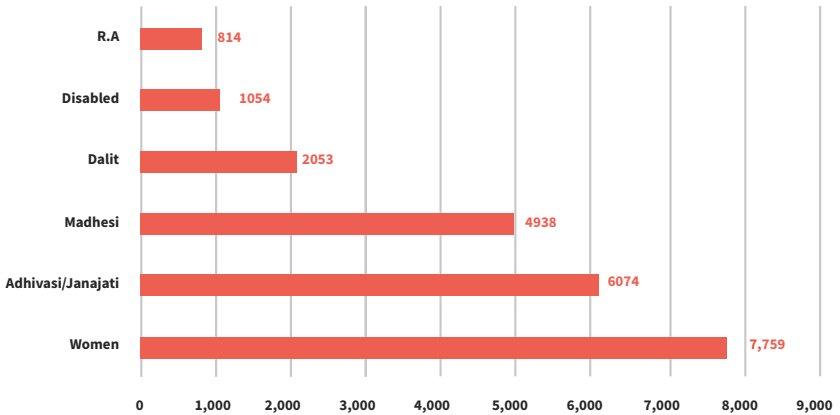
By caste/ethnicity groups, hill castes comprise highest percentage, which is 30.11 percent of total population, followed by 26.09 percent Mountain/Hill Janajatis and least is Madhesh/Terai Dalit comprising 4.77 percent and others, foreigners and not stated is 0.51 percent (CBS, 2021) as shown in the figure below.

Figure 5. Population composition by caste/ethnicity groups in percentage



Likewise, the Ministry of Finance (MoF) recorded 22,692 in civil service from inclusive group from the Fiscal Year (FY) 2007/08 to FY 2021/22.¹⁷ Figure 6 shows the details of inclusive groups enrollment in civil service.

Figure 6. Enrollment of inclusive group in civil service from FY 2007/08 to FY 2021/22



Source: Economic Survey 2022/23, Ministry of Finance, Nepal

In addition to it, inclusive representation in the state bodies is not fully implemented as mandated by the Nepal's 2015 constitution. Referring to the figure 5 data, representation and visibility of indigenous group is slowly progressing at local and provincial level when compared national election 2017 and 2021. However, their representation at the House of Representative is declining.

Figure 7. Representation of indigenous group national election¹⁸

| Election Year | Tier of Election | Position | Male | | Total |
|------------------------|--------------------------|-------------------------------|------|-----|-------|
| Election 2017 | Local Level | Mayor/Chairperson | 251 | 8 | 259 |
| | | Deputy Mayor/Vice Chairperson | 27 | 234 | 261 |
| | Province Assembly | First-Past-The-Post | 81 | 8 | 89 |
| | | Proportional Representation | 25 | 63 | 88 |
| | House of Representatives | First-Past-The-Post (FPTP) | 47 | 2 | 49 |
| | | First-Past-The-Post (FPTP) | 12 | 31 | 43 |
| Election 2022 | Local Level | Mayor/Chairperson | 259 | 12 | 271 |
| | | Deputy Mayor/Vice Chairperson | 78 | 199 | 277 |
| | Province Assembly | First-Past-The-Post | 97 | 6 | 103 |
| | | Proportional Representation | 10 | 70 | 80 |
| | House of Representatives | First-Past-The-Post | 40 | 4 | 44 |
| | | Proportional Representation | 7 | 33 | 40 |
| National Assembly 2080 | | | 6 | 3 | 9 |

Source: Fourth Annual Report FY 2079/80, Indigenous Nationalities Commission

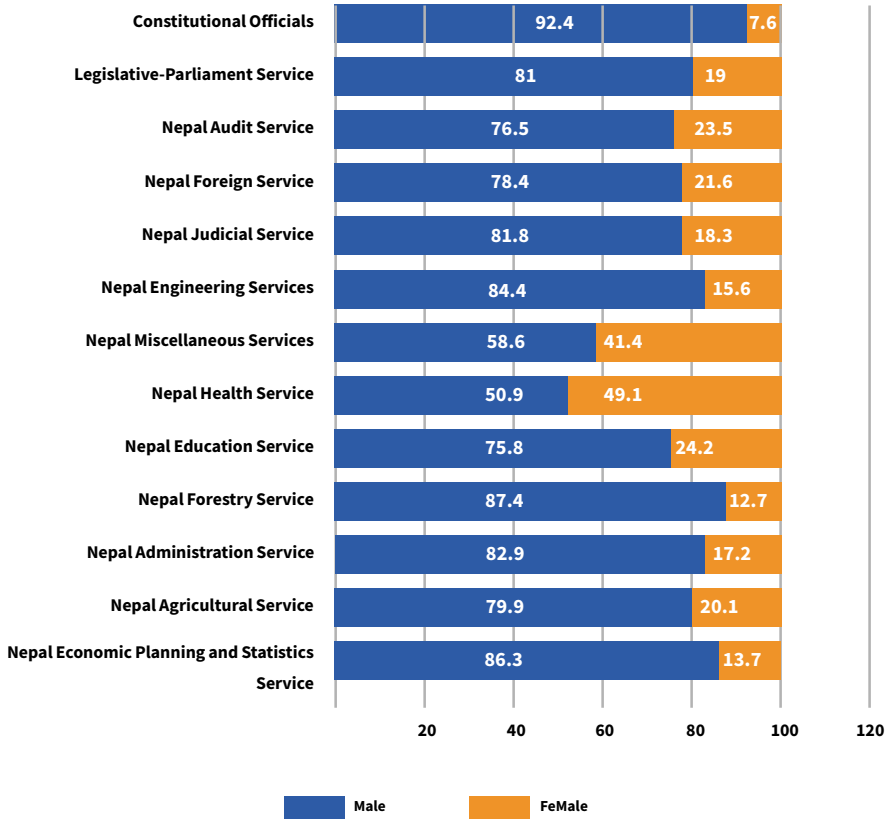
By gender, 2021 census recorded that Nepal is composed of 48.87 percent male and 51.13 percent female.¹⁹ Though female population is higher, progress in gender equality remained slow when measured in political influence, economic independence and opportunity. The Global Gender GAP Index 2024 showed that Nepal ranks 117th out of 146 countries.²⁰ Women's meaningful participation, representation, and leadership roles is still challenging in Nepal as shown in table below.

¹⁸ Indigenous Nationalities Commission

¹⁹ untitled (cbs.gov.np)

²⁰ WEF_GGGR_2024.pdf (weforum.org)s

Figure 9. Gender distribution in civil servants by service in percentage²¹



Source: Economic Survey 2022/23, Ministry of Finance, Nepal

Dalits' representation in the decision-making bodies (including the Mayor, Deputy Mayor, Vice chairperson and Ward Chairperson) is decreasing when compared between 2017 and 2022 local elections.

Figure 8: Representation of Dalits in national election

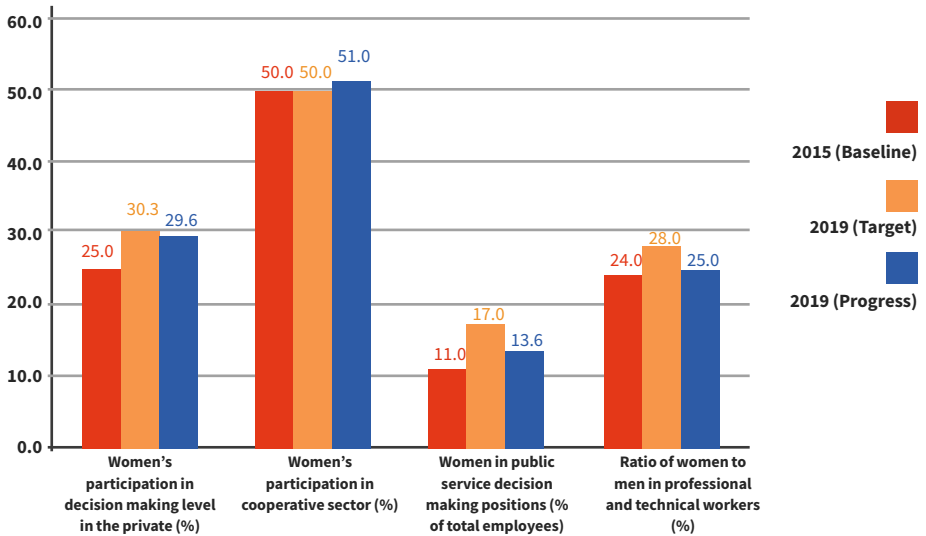
| Election Year | Tier of Election | Post | Total |
|-------------------------------|------------------|------------------|-------|
| Election 2017 | Local Level | Mayor | 6 |
| | | Deputy Mayor | 11 |
| | | Chairperson | 1 |
| | | Vice-Chairperson | 16 |
| | | Ward Chairperson | 197 |
| | | Member | 797 |
| | | Dalit Women | 6620 |
| Election 2022 | Local Level | Local Level | 3 |
| | | Deputy Mayor | 9 |
| | | Chairperson | 6 |
| | | Vice-Chairperson | 7 |
| | | Ward Chairperson | 148 |
| | | Member | 878 |
| | | Dalit Women | 6620 |
| | Provincial Level | | 33 |
| House of Representatives | | 16 | |
| National Assembly 2080 | | | 7 |

Source: Election Commission, Dignity Initiative²²

As per the Census data (2021) also depicted that literacy rate of Nepal is 76.2 percent. Adult male literacy rate comprises 83.6 percent and adult female is 69.4 percent. Comparatively, female's attainment to education and engagement in education sector by service is low.

Women are less in the managerial posts like in decision making level (29.6 percent), employees (13.6 percent) and professional and technical sectors (25 percent) (Figure 9). On participatory and representative decision-making, the proportion of women in decision-making positions in public institutions remains much lower (13.9 percent) than expected (20.3 percent) in 2019. Although the participation of women overall has increased, there has been virtually no progress in the decision-making positions in public life held by women over the years. This portrays that there is a lack of meaningful participation and the representation that is there is mostly tokenism

Figure 10: Proportion of women in managerial positions.



Source: An SDG 16 plus report, Nepal Planning Commission

Mechanisms for inclusion in Nepal

A. Three Tiers of Government:

Federal Nepal is made up of three tiers of government- Federal Parliament, Provincial Assembly and local bodies to promote, integrate and strengthen inclusion in Nepal.

i. Federal Parliament of Nepal: As per the 2015 constitutional provision, federal parliament comprises National Assembly and House of Representatives.

- National Assembly:** The National Assembly is a permanent administrative body of the state. This assembly is responsible for the establishment and development of an inclusive and democratic governance system of including marginalized and endangered communities in the governance of the state.²³ It consists of 59 members, in which 56 are elected from the electoral college and three are nominated by the President on the recommendation of the Council of Ministers. At least three women, one Dalit and one person with disabilities from each province is nominated by the electoral college.
- House of Representatives (HoR):** House of Representative is a legislative body of the state. In this parliament, there are 275 members. Of these members, 165 members are elected through the First Past the Post

(FPTP) electoral system and the remaining 110 through the proportional representation system.²⁴ Representation must be ensured on the ground of women, Dalit, indigenous people, Madhesi, Tharu, Muslim, and backwarded regions and based on population, geography and territorial balance. Each elected representative will serve for five years term.

ii. Provincial Assembly: Provincial assembly comprises 550 members from seven provinces of Nepal (Koshi, Bagmati, Madhesh, Gandaki, Lumbini, Karnali and Sudharpaschim). Of them, 330 members are elected through FPTP electoral system and the remaining 220 are elected through the proportional electoral system²⁵. The political parties must ensure the representation of women, Dalit, indigenous nationalities, Madhesi, Tharu and Muslim while selecting election candidates for the provincial assembly through the proportional electoral system. Additionally, at least one-third of the total members elected from each political party representing the provincial assembly must be women.

iii. Local Bodies: In Nepal, there are altogether 753 local bodies from 77 districts, broadly categorized into 6 metropolitan cities, 11 sub-metropolitan cities, 276 municipalities, 460 rural municipalities and 6,743 wards.²⁶ In addition, there are 77 District Coordination Committees to serve as coordination mechanisms between three tiers of government bodies, private and public agencies. A total of 35,221 representatives are elected every five years. Municipalities are composed of 586 Mayors and Deputy Mayors, 920 Chairs and Vice-Chairs in rural municipalities, 6743 ward chairpersons and 33,715 office bearers elected through FPTP electoral system.²⁷The executive power at the local level aim to maintain citizen participation in the planning process. The law states that political party must ensure 50 percent of their candidate are women to contest a position of Mayor/Deputy Mayor and Chair/Vice Chairperson in the local level election. The law also mandated that among four members elected in each ward; one must be Dalit women. Furthermore, there are Toile Development Committees in each ward to facilitate representation of backward region and oppressed groups and communities to the local development planning process.

B. Political Parties:

Political parties serve as central actors to operationalize and legitimize political inclusion in Nepal by providing organized medium for citizen participation in the planning and decision-making process and state bodies. They are responsible to facilitate peaceful competition for political power and select candidates for various posts in the political office.

24 go chy1tj5vmblyvf.pdf

25 Six years of provincial assemblies

26 National Report | National Population and and Housing Census 2021 Results

27 Everything you need to know about May 13 local polls

C. Civil Society Organizations, International Agencies and Media:

Several civil society organizations, international agencies and media are playing a crucial role in Nepal to implement, advocate, safeguard and strengthen the integration and localization of inclusion at the local and national level. They are catalyzing social activism and empowering and allowing citizens to perform as a watch dog role. Inclusion focused various awareness/sensitization/empowerment programs, capacity building programs or livelihood programs to the target groups/community are conducted by them. Similarly, the media is working as a watch dog role by disseminating information and amplifying the voices and agendas of the underrepresented, marginalized and backward regions.

Key Milestones in Legal Reforms Advancing Peace, Justice and Inclusion in Nepal

In recent decades, Nepal's legal landscape has undergone significant transformation driven by the principles of equality, inclusivity, and human rights. As a result, significant reforms have been able to address long-standing issues of discrimination, governance, and social justice, with special focus on empowering marginalized groups such as women, Dalits, indigenous communities, and sexual minorities. These reforms, supported by constitutional provisions, legislative amendments, and judicial decisions, continue to aim to promote fairness, accountability, and inclusion in the country.

This section thus highlights key legal milestones in Nepal's journey toward a more equitable and just society while acknowledging the ongoing efforts required to sustain and deepen these advancements-

Major legal reforms in Nepal:

- Amendments to discriminatory laws, including those related to women, Dalits, and the third gender, based on decisions and directive orders of the Supreme Court. For example, the Muluki Ain (the general code) was amended to ensure equal property rights for daughters and sons.
- Establishment of the Nepal Law Commission in 2007 as a statutory independent body to keep the law under review and recommend reforms: The Commission has initiated various law reform projects at the local, provincial, and national levels to promote good governance and address social, economic, and political obligations.
- Following the deaths of countless women who had undergone unsafe abortions, Nepal legalized the procedure in 2002. In 2018, Nepal's government went further to protect women, Abortion was legalized in Nepal in March 2002 under the 11th Amendment to the Civil Code. The implementation of

legal abortion services began on December 25, 2003. This reform was largely driven by the high maternal mortality rates associated with unsafe abortions, prompting the government to take action to protect women's health and rights enacting legislation that recognizes seeking abortion as a fundamental human right.²⁸

- In 2007, the Supreme Court ruled that the government must enact laws to protect LGBTIQ rights and prohibit discrimination based on sexual orientation and gender identity. This landmark ruling paved the way for further legal reforms.
- The 2015 constitution prohibits discrimination on the basis of sex and recognizes the right of LGBTIQ people to obtain citizenship certificates in accordance with their gender identity. However, it does not explicitly legalize same-sex marriage.
- In 2015, Nepal became one of the first countries in the world to legally recognize a “third gender” distinct from male and female. This allowed for the inclusion of a third gender category in official documents like voter rolls, census data, citizenship certificates, and passports.
- In 2023, a single judge bench of the Supreme Court issued an interim order directing the government to temporarily register same-sex marriages, though the full bench has not yet delivered a final verdict. In April 2024, the government issued a circular to all local authorities to register same-sex marriages in a separate record, making Nepal the second Asian country to do so.
- Good Governance Initiatives: Recent reforms have focused on enhancing governance and accountability. Laws such as the Prevention of Corruption Act (2002) and the Local Government Operation Act (2017) aim to promote transparency and citizen participation in governance. Additionally, the establishment of the Nepal Law Commission has facilitated the review and modernization of existing laws to align with contemporary needs (Acharya, 2021).

Major legal reforms for Inclusion in Nepal:

- **Constitution of Nepal (2015)** defines Nepal as a multiethnic, multilingual, multi-religious and multicultural country. All languages spoken as their mother tongue are given equal treatment as language of the state. Also, it prohibits all forms of discrimination, oppression, and injustices among citizens on grounds of origin, religion, race, caste, tribe, sex, economic condition, language or geographical region, ideology and such other matters. Also, it ensures the rights of women, Dalits, Adibasi, Madhesi, Tharus, Muslims, oppressed class, backward communities, minorities, marginalized groups,

peasants, laborers, youths, children, senior citizens, sexual minorities, persons with disability, pregnant, incapacitated and the helpless persons, and of the citizens who belong to backward regions and financially deprived citizens.

- **Local Government Operation Act (2017)** prioritizes rule of law and sustainable development through proportionally inclusive and just distribution of the fruits of democracy. Art 17 (4) states that at least 50 percent of the head or deputy head, chairman or vice chairman positions of a party should be filled by women. Likewise, section 24 (3 and 5) makes mandatory to ensure the participation of women, excluded groups in the planning and implementation of development programs.
- **The Election Commission Act (2017)** mandates that 40.4 percent of all nominee seats to be reserved for women and this included the rule that mayor and deputy mayor and between chair and deputy chair of rural municipalities, parties must fill one women candidate. Similarly at the ward committee level with four member seats and one ward chair, the parties must have at least two women ward members, one of the had to be a Dalit.
- **Civil Service Act (1993)** (amended in 2007) allots 55 percent of vacancies for open competition and the remaining 45 percent allocated for women-33 percent, 27 percent, Adibasi/Janajati, 22 percent Madhesi, Dalit-9 percent, Disabled (differently able)-5 percent and Backward Area-4 percent.
- **Political Party Act (2017)** mandates to ensure proportional representation of the diverse community while selecting its members to the political offices. The Act states that women must represent at least one-third of the membership in all party committees.
- **Gender Equality and Social Inclusion Policy (2021)** prioritize the economic empowerment of women, ensuring their meaningful participation in all parts of society and the elimination of gender-based violence and harmful practices.
- **The Sexual Harassment at Workplace (Prevention) Act (2014)** provides the legal framework to ensure a safe working environment for all.
- **The Caste-Based Discrimination and Untouchability (Offence and Punishment) Act (2011) (amended in 2018)** prohibits untouchability and discrimination on the ground of origin caste, race, descent, community, occupation or business or physical condition in the name of custom, tradition, religion, culture, ritual or any other name.
- **Domestic Violence (Crime and Punishment) Act (2009)** defines domestic violence as any form of physical, mental, sexual and economic harm perpetrated by a person to a person with whom he/she has a family relationship, and this word also includes any acts of reprimand or emotional

harm. Provision related to filing complaints, compensation, service center and penalty (a fine of three thousand rupees up to twenty-five thousand rupees or six months of imprisonment or both) are included under this act.

- **National Foundation for Upliftment of Aadibasi/Janjati Act (2002)** establish and operate a foundation for upliftment of Aadibasi/Janjati for social, economic and cultural development and upliftment of various Aadibasi/Janjati of Nepal and for their equal participation in the mainstream of national development.
- **National Dalit Commission Act (2017)** respect human rights of the Dalit Community as well as the protection and promotion of the rights, interests of the Dalit community and the empowerment of the community.
- **Tharu Commission Act (2017)** identifies, protects and promotes the history and culture of Tharu Community and their rights and interests.
- **Muslim Commission Act (2017)** identifies, protects and promotes history and culture of the Muslim Community and their rights and interests.
- **Madhesi Commission Act (2017)** identifies the history and culture of Madhesi Community, protection and promotion of the rights and interests of the Madhesi Community and the empowerment of the community.
- **National Indigenous Nationalities Commission Act (2017)** identifies the glorious history and culture of Indigenous nationalities, protection and promotion of their rights and interests and the empowerment of the communities.

Nepal has a rich history of social justice movements that have played a crucial role in shaping the nation's legal and societal landscape. These movements have been driven by the noble ideals of equality, inclusivity, and the protection of fundamental human rights. For instance, the movement for gender equality in Nepal has made significant strides in recent years, with women actively participating in political, economic, and social spheres. The advocacy for marginalized communities, such as the Dalits and indigenous groups, has also been a prominent feature of Nepal's social justice movements.

Moreover, these movements have not only influenced laws and policies but have also fostered a culture of activism and civic engagement among the Nepalese people. Grassroots organizations and civil society groups have emerged as powerful advocates for social change, pushing for reforms and challenging systemic injustices. The spirit of solidarity and collective action has been a driving force behind many successful campaigns for social justice in Nepal.

In addition, the social justice movements in Nepal have sparked important conversations about the intersectionality of various forms of oppression and discrimination. Issues of caste, class, ethnicity, and gender have been brought to

the forefront, prompting a more nuanced understanding of social inequality and the need for intersectional approaches to address these complex challenges. As a result, the discourse around social justice in Nepal has become more inclusive and comprehensive, acknowledging the interconnected nature of different forms of marginalization.

Overall, Nepal's history of social justice movements reflects a deep commitment to building a more just and equitable society for all its citizens. By advocating for parity, inclusivity, and fundamental human rights, these movements have left an indelible mark on the nation's collective consciousness, inspiring future generations to continue the fight for a more equitable and just society.

Nepal's journey towards social justice has been marked by significant legal reforms, social movements, and efforts towards inclusion. While progress has been made, challenges remain in fully realizing the goals of equality and justice for all. Continued efforts and commitment are essential to address these challenges and build a more inclusive and equitable society.



CHAPTER 4
AGENDA FOR PEACE, JUSTICE
AND INCLUSION

Chapter -4. Agenda For Peace, Justice and Inclusion

This chapter outlines several crucial agendas of action to ensure the upholding of these principles in the Nepalese context. These agendas form part of a broader strategy aimed at creating a peaceful, just, and inclusive society in Nepal.

4.1. Agenda for Peace

Truth and Reconciliation Process: Nepal’s transitional justice process, led by the Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CIEDP), has faced challenges in meeting the needs of victims and affected communities. Though recent developments, mainly the federal parliament passing the amended TRC bill and government taking a move to select a new set of commissioners for TRC and CIEDP indicate some movement forward, yet substantial challenges remain.

In May 2024, the Supreme Court of Nepal mandated the government to appoint commissioners to the Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappearance Persons (CIEDP) within a month. The court also directed the formation of a working team to initiate preliminary investigations aimed at ensuring justice for conflict victims.²⁹ This intervention reflects a critical push towards addressing the longstanding grievances of those affected by the decade-long civil conflict.

Nepal’s long-awaited transitional justice law, adopted by the lower house of parliament on 14 August 2024, incorporates many positive provisions that could help in advancing justice, accountability, and redress for the widespread human rights violations and abuses committed during the 1996-2006 conflict. The new law, officially titled “A Bill to Amend the Disappeared Persons’ Enquiry, Truth and Reconciliation Commission Act, 2071.”³⁰ However, it is not devoid of criticisms. It is not in consistence with the international human rights standards. The law

29 What Next for Nepal’s Transitional Justice Process? – The Diplomat

30 New Transitional Justice Law in Nepal is a Flawed Step Forward

Under the current bill, crimes committed during the conflict are either classified as “violations of human rights” or “serious violations of human rights.” While offences defined as human rights violations could be granted amnesty, “serious violations of human rights” could be referred to and prosecuted in a special court. The definition of “serious violations” is limited to “rape or serious sexual violence;” “intentional or arbitrary killing;” enforced disappearance, provided that the victim’s whereabouts remains unknown; and “inhuman or cruel torture.” However, these definitions are not consistent with international law and exclude other serious crimes. For instance, the prohibition of torture and the requirement that it be criminalized is absolute and there can be no qualification for “inhuman or cruel” torture, since torture by its nature is inhuman or cruel.

defines “violations of human rights” as “any act except serious human rights violations committed in contravention of Nepali laws, international human rights or humanitarian law.” In previous iterations of the law, this category of crimes was completely excluded from prosecution. In the current version, it appears that the special court can adjudicate violations of human rights (not defined as “serious”) that are not granted amnesty, which the Truth and Reconciliation Commission can provide if the alleged perpetrator fulfills certain conditions (such as disclosing the truth, making an apology to victims, or paying compensation), and with the consent of the victims. However, the language of the law is imprecise, and while an expansion of the mandate of the special court is an improvement, any amnesty for serious crimes is contrary to Nepali and international law and standards and violates victims’ right to effective remedy and reparation (Amnesty International, 2024).

CSOs, such as the human rights organizations and victims’ associations of Nepal, have been actively advocating for the rights of victims and pushing for effective transitional justice measures. However, their recommendations are often overlooked by the government, which limits their impact on reform efforts (Berghof Foundation, 2024).

While recent Supreme Court rulings have prompted some progress in Nepal’s transitional justice process, significant gaps remain regarding political will, legal reform, and accountability for past abuses. Civil society’s continued advocacy and international pressure are crucial to ensuring that victims receive the truth, justice, and reconciliation they deserve (Human Rights Watch, 2023).

Intergovernmental Conflicts and Cooperation: The 2015 constitution (schedule 5,6,7,8 and 9) has delineated separate and concurrent powers and jurisdictions to the three tiers of government bodies. However, autonomy of exercising powers and authorities is the most heated discussion in Nepal. Most of the ethnic groups critiqued that positive competition, autonomy and democratic culture is missing while exercising powers and authority. Ambiguity, uncertainties and unwillingness are observed while transferring powers and authority (relating to distribution of resources, jurisdictions of three tiers of government, employee and police integration, policy legislation, and administrative management of provincial and local government) from central government to provincial/local governments and provincial to local governments.³¹ Dependency to federal government and limited autonomy to exercise constitutional powers and authority has increased regional inequalities, communities’ exclusion as well as significantly affected the responsiveness and effectiveness of provincial and local governments towards the people and target communities and their development.

As one observes simultaneous execution of a total of 761 governments in the three tiers, each exercising exclusive as well as concurrent rights with proactive lawmaking, planning, and implementing roles, inevitable conditions for entangled Intergovernmental relations can be visualized, leading to persistent intergovernmental conflicts. Additionally, the nature and characteristics of

intergovernmental relations and conflicts in federal Nepal, attributes to vertical as well as horizontal dynamics to the intergovernmental structures, linking to six different types of conflicts³² i.e.,

- a. between the three tiers of governments,
- b. between the federal and the province governments,
- c. between the province and local governments,
- d. between the federal and the local governments,
- e. among the local governments
- f. among the province governments

Hence, when observing intergovernmental relations and the conflicts within the federal context of Nepal, its multifaceted nature and interlinkages to the core of a democratic society, beyond the governance structure must not be forgotten.

Nonetheless, intergovernmental conflict is a not a new phenomenon when it comes to countries adopting a new governance system with the provision of multiple layers of governments, each exercising exclusive and concurrent rights. Such conflicts are even more common when different layers of governments must operate with the principles of coordination, cooperation and coexistence. As it is prevalent in the context of Nepal, post-conflict and post-movement governance arrangements have the potential to increase such intergovernmental conflicts. Reason being, their formation is fundamentally based upon the power sharing arrangements between the agitating parties and interest groups, which may not necessarily include the best satisfaction of all parties and the people.

It is therefore significant to emphasize that intergovernmental conflicts in a federal framework are not contained within the governance structures, rather they have extended beyond the frontier of three government tiers and affected the citizens, fueling the citizen's dissatisfactions and inducing conditions for larger civil unrest. Furthermore, the prevalent mechanisms like the 2015 Constitution itself, institutional arrangements like National Coordination Council (NCC), Provincial Coordination Council (PCCs), District Coordination Committees (DCCs) and informal mechanisms like the Municipal Association of Nepal (MUAN), National Association of Rural Municipalities in Nepal (NARMIN), etc. have their own specified roles and ideologies to advance the notion of intergovernmental peace between different levels and layers of governments. However, although the existence of these policies as well as institutional arrangements show the state's commitment to address intergovernmental conflicts and advance intergovernmental relations in the best interests of all three levels of governments, in actuality, their efficiency on the matter is highly contested.³³ Therefore, urgent emphasis is necessary for active implementation of these mechanisms to fully incorporate their role in intergovernmental conflict transformation and peaceful governance in Nepal.

32 Governance Conflicts and Cooperation in Federal Nepal - GMC Nepal

33 Governance Conflicts and Cooperation in Federal Nepal - GMC Nepal

Natural Resource Conflicts: In a general sense, norms, institutions and processes that determine how power and responsibilities over natural resources and climate are exercised, how decisions are taken, and how citizens (including women, men, youth, Indigenous peoples and local communities) participate in and benefit from the management of natural resources, comprises the crux of natural resource governance. Previous studies also suggest that on one hand, governance practices have the potential to transform natural resources as key drivers of ecological and socio-economic development and on the other, their ineffectiveness can cast multilayered environmental, socio-economic, and political impacts. In this regards, mere prioritization of the economic value of natural resources by the governing approaches can dissolve nature's complex functions into a set of commodities and services and can strip them from their social, cultural, and ecological values (Unmüßig, 2014).

Majorly, amid the natural resource governance in Nepal, the concurrent and exclusive powers of the three tiers of government over access, use, and management of natural resources in Nepal need clarification. For this, the role of institutional bodies like the National Natural Resources and Fiscal Commission (NNRFC) play a significant role to collaborate with three government tiers and ensure balanced allocation of funds, financial harmonization, and just distribution of natural resources, benefitting the people and uplifting the sustenance of natural resources.

Also, growing evidence of human- wildlife conflicts ³⁴ suggest that relevant authorities must adhere to a precise chain of reactive and preventive responses to tackle human- wildlife violence, minimize their impact and recurrence, and enable human-wildlife coexistence. Also, the existing context calls for strict measures to control illicit activities like hunting, poaching, and the illegal trade of wildlife, but community-led initiatives like community patrols, and wildlife-friendly farming practices, must also be encouraged with active roles of conservation practitioners, community leaders, researchers, elected representatives, local and Indigenous groups, and government officials.

Hence, addressing natural resource conflicts needs an integrated approach, involving technical expertise, policy coherence, and a precise understanding of the social, economic, and political dynamics surrounding these resources. These strategies already build an avenue towards peaceful and sustainable human-nature coexistence and governance as well.

Development Conflicts: Nepal's development trends, particularly after adoption of a federal governance structure in 2015, underscores the importance of decentralization and local-level engagement in development agendas and processes of a country. In this regard, the federal system has notably shifted development, especially infrastructure development responsibilities to local governments, promoting localized decision-making and enhanced participation in development planning. This shift has led to significant progress, including increased investment in transportation, hydropower, urban infrastructure, and

major projects like highways and hydropower plants, which aim to enhance connectivity and energy security.

However, the governance landscape in Nepal faces its own set of challenges³⁵ that often overshadow sustainable development efforts. Especially, intergovernmental conflicts, overlapping jurisdictions, and resource allocation disputes have created friction among the different tiers of government, and across the same tier.³⁶ These tensions are further exacerbated as unclear constitutional roles and responsibilities fuel competition for resources and make way for politically driven agendas. As a consequence, delays in budget allocation, fund disbursement, and disputes over jurisdictional authority have stalled national as well as local level projects. Additionally, in multiple cases, large-scale infrastructure initiatives have resulted in displacement of local communities without adequate compensation, loss of livelihoods, and social unrest.³⁷ More importantly, this trend is opening avenues for rampant and systemic corruption, priority of power holder's personal agendas and haphazard development model that does not adequately address the local needs and grievances.

These governance gaps and resulting grievances highlight the critical need for a peace-oriented approach to development governance. Integrating equitable resource distribution and participatory planning processes can serve as a bridge to reduce socio-political divides and foster trust among communities. This suggests that to foster peaceful governance through development, Nepal must adopt a governance framework that prioritizes inclusivity, equity, and transparency.

Thus, development governance that is inclusive of local needs, transparent, and equitable has the potential to transform Nepal's challenges into opportunities for sustainable peace. Nepal's governance system urgently needs to recognize the needs of diverse communities and integrate holistic planning approaches, for development initiatives to become instruments for peacebuilding. By prioritizing these strategies, Nepal can leverage its federal structure to build a foundation for peaceful, inclusive, and resilient development governance.

Religious and Ethnic Tensions: The religious/ethnic tensions are also observed between minority and majority populations, different religious groups, heterogenous and homogenous communities. Identity, distribution of transboundary resources, development and religious/cultural rights have been major factors for community division and disputes. People become more aggressive on matters of cultural and religious appropriateness. For instance, tension occurred between the indigenous tribe and Hindu group against the slaughtering of bull in Dharan city.³⁸ Sometimes such tensions are influenced and escalated by misinformation, disinformation and hoaxes.

35 Triggers of Governance Conflicts in Federal Nepal: A Rapid Assessment of Conflicts in Nepal's Federal Structure - GMC Nepal

36 Governance Conflicts and Cooperation in Federal Nepal - GMC Nepal

37 Governance Watch: April 2024 - GMC Nepal

38 Dharan peaceful amid fear of ethnic, religious violence

Domestic Violence/ Gender Based Violence (GBV): Domestic violence is a pervasive issue in Nepal, affecting countless individuals irrespective of age, economic status, or education level. The Nepal Demographic Health Survey (NDHS, 2022) reports that one in three Nepali women aged 15-49 has experienced some form of violence. Between July 2021 and July 2022 alone, over 21,568 cases were reported, with actual figures likely higher due to underreporting. This alarming statistic underscores the urgent need for comprehensive protection measures to address the problem. Domestic violence often manifests in various forms, including physical, emotional, sexual, and economic abuse, causing substantial harm not only to individuals but also to wider society. The roots of domestic violence in Nepal are deeply entrenched in socio-cultural norms and values that often condone such behavior. Patriarchal structures dominate the social fabric, leading to systemic inequality and power imbalances between genders. In many cases, traditional beliefs about gender roles reinforce the idea that women should remain subservient to men, which perpetuates cycles of violence. Furthermore, social stigmas surrounding gender-based violence prevent victims from seeking help or reporting abuse, thereby allowing the cycle of violence to continue unabated.

Nepal's government has taken steps to combat Gender Based Violence (GBV), including ratifying the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979 and enacting laws like the Domestic Violence (Crime and Punishment) Act 2009, the Rape Act 2016, and the Sexual Harassment at Workplace (Prevention) Act 2015. However, despite this progress, local governments' efforts to address GBV remain weak and more needs to be done to prevent, mitigate and respond to GBV in Nepal.

Traditionally Harmful Practices: Nepal's agenda for peace is fundamentally incomplete without confronting traditionally harmful practices such as child marriage, dowry, caste-based discrimination, menstrual restrictions like Chhaupadi, and witchcraft accusations. These practices expose women and marginalized groups to violence and significantly impair their physical and psychological health, educational opportunities, and economic outcomes. Rooted in centuries-old patriarchal, social, cultural, and religious norms, these harmful practices are often viewed as traditional and normal within communities, yet they deny individuals their dignity and freedom. Recognized as serious barriers to development, these practices hinder inclusive governance, political participation, and overall societal progress, obstructing the realization of the 2030 Agenda's principle of Leaving No One Behind.³⁹ Addressing these deeply entrenched issues is essential for fostering a more equitable society and achieving lasting peace in Nepal.

a. Child Marriage and Dowry: In 2023, child marriage remains a pressing issue in Nepal, where the country holds one of the highest rates globally. According to UNFPA, Nepal has the third-highest rate of child marriage in Asia,⁴⁰ with

39 HP_perception_survey_0.pdf

40 Policy Brief: Digital Ecosystem Analysis on Child Marriage in Nepal - Nepal | ReliefWeb

41 percent of women aged 20 to 24 having been married before turning 18. Alarming, Nepal is also among the top 10 countries for child marriage prevalence among boys.

This practice violates the rights of children, trapping them in cycles of poverty and inequality. It perpetuates gender-based violence, limits access to education and opportunities, and often forces young girls and boys into adult responsibilities before they are ready. Despite laws prohibiting child marriage since 1963 and raising the legal marriage age to 20 in 2017, deep-rooted cultural norms and economic hardships continue to drive this harmful tradition. Legal enforcement faces significant challenges, as societal expectations often outweigh legal restrictions. Poverty, lack of education, and community pressures further perpetuate child marriage, especially in marginalized communities.⁴¹

- b. In response, the government of Nepal has committed to eradicating child marriage by 2030, rolling out a comprehensive strategy with six key pillars:** educating and empowering girls, implementing and enforcing laws, engaging communities, and providing stronger support services for those affected⁴². Such efforts to eradicate child marriage can contribute to broader peace initiatives as it helps young boys and girls to reach their full potential, strengthens families, promotes gender equality, and lays the groundwork for a more peaceful and just future.
- c. Caste-Based Discrimination:** Caste-based discrimination continues to divide Nepali society, denying many the chance to live with dignity and equality. Dalits and other marginalized groups often face exclusion, limiting their access to opportunities and justice. This deeply rooted inequality not only causes immense personal suffering but also disrupts social harmony, fueling unrest and conflict. True progress and stability can only be achieved when every individual, regardless of caste, is treated with fairness and respect. By embracing inclusive policies and ensuring equal rights for all, Nepal can take meaningful steps toward healing divisions, promoting social justice, and building a peaceful future where everyone has the opportunity to thrive.
- d. Menstrual Restrictions like Chhaupadi:** Menstrual restrictions such as **Chhaupadi** and associated taboos should be prioritized in peace agendas due to their profound impact on gender equality, health, and social cohesion. In Nepal, approximately 89% of women and girls report experiencing some form of restriction during menstruation, with Chhaupadi being one of the most severe practices, where women are forced to live in unhygienic sheds during their menstrual cycle. This practice not only exposes them to physical dangers, such as snakebites and suffocation but also reinforces stigma and discrimination against women, leading to psychological distress and social isolation.⁴³ Despite the criminalization of Chhaupadi in 2005 and its

41 [unicef.org/nepal/media/21151/file/ECM - Main Report.pdf](https://www.unicef.org/nepal/media/21151/file/ECM - Main Report.pdf)

42 <https://www.joghr.org/article/88951-child-marriage-and-its-impact-on-health-a-study-of-perceptions-and-attitudes-in-nepal>

43 [Literature Review on Harmful Practices in Nepal.pdf](#)

reinforcement in 2017, enforcement remains weak, particularly in rural areas where traditional beliefs persist.⁴⁴ Thus, it is crucial to strengthen law enforcement against such discriminatory practices while simultaneously engaging communities in education about menstruation to dismantle harmful taboos. Empowering women through education and resources will also be essential in fostering a culture of respect and equality, ultimately contributing to a more peaceful society.

- e. **Witchcraft Accusations:** In Nepal, accusations of witchcraft often lead to violence, social ostracism, and even death, particularly targeting women who are marginalized or hold non-conforming roles within their communities. These harmful practices are deeply rooted in patriarchal norms and serve as a mechanism for controlling women's behavior and reinforcing gender inequality. Reports indicate that women accused of witchcraft face severe repercussions, including physical violence and social exclusion, which not only affect the victims but also create a climate of fear within communities, disrupting social cohesion and peace.⁴⁵

Currently, while there have been legislative efforts to address witchcraft accusations, such as the Domestic Violence (Crime and Punishment) Act of 2009, enforcement remains inconsistent. Such practices reflect deep-seated gender biases and contribute to a culture of fear and oppression. Combating these accusations through legal reforms and community awareness programs can protect vulnerable populations and promote a culture of respect and safety. Moving forward, it is essential to strengthen legal frameworks against violence related to witchcraft, promote gender equality through educational programs, and empower women's rights organizations.

In a nutshell, harmful traditional practices enforce inequality, disrupt social cohesion, and entrenches structural injustices, all of which undermine peace and stability. To build a more just and equitable society, Nepal must make eliminating these practices a core part of its peace agenda. Addressing issues like gender inequality, caste discrimination, and cultural taboos will not only promote fairness but also ensure that everyone has the opportunity to thrive. By embracing inclusivity and respecting the rights of all individuals, Nepal can lay the foundation for lasting peace and shared prosperity.

Political Conflicts:

Political conflicts often emerge from diverse dimensions, reflecting challenges in governance structures, power distribution, identity politics, and representation. In Nepal, these conflicts are deeply intertwined with the evolving federal system, unresolved issues of provincial demarcation, and demands for constitutional reforms. Addressing such conflicts is essential to strengthening the na-

44 Exploring menstrual taboos in Nepal using new empowerment indicators for water, sanitation and hygiene | CGIAR GENDER Impact Platform

45 Literature Review on Harmful Practices in Nepal.pdf

tion's democratic framework, fostering cooperation among political actors, and ensuring sustainable peace and stability. This section goes on to explore some key dimensions of such political conflicts in Nepal and highlights the pathways necessary for their resolution-

a. Peaceful Political Governance: Over the past few decades, Nepal's political journey has been marked by diverse systems, each with its own ideology and impact on participatory democracy. Although the current federalist system emphasizes local governance, citizen involvement and a participatory governance system, this transformation in many ways, has hindered the practices of federalism among different tiers of governments and between the government and the people. Especially, as Nepal's politics runs within a parliamentary republic with a multiparty system, it has created significant potentials to raise competitiveness among the political parties and between the political parties and the government. It is therefore essential to ensure a clear and defined guideline describing distribution of power and authority between federal, provincial, and local levels through potential constitutional amendments and political vigor. While this may mitigate jurisdictional disputes and enhance the effectiveness of the federal governance system, major investment in capacity-building of administrators, officials, and elected representatives is still necessary. More importantly, recognizing the withstanding conflicts between political actors, effective mediation between different government levels and within administrations and political parties is the need of the hour.⁴⁶ Political actors in this matter must strategize conflict resolution mechanisms, so the impact of their conflicts does not extend to performances of local bodies, civil servants and civilians. Nonviolent measures like strategic and meaningful dialogues on occurring political conflicts are necessary to fulfil the communication gaps among the political actors. Such platforms provide opportunities to identify the existing problems in the political governance systems and clarify their roots and their relevant solutions.

b. Effective Implementation of Federalism: Adoption of federalism has ended the internal large-scale political conflict in Nepal. Regardless, the effective management and amalgamation of federalism have continued to become more divisive subjects in Nepal. Debates mainly focused on distribution of power and resources, administrative jurisdictions and financial autonomy across three tiers of government. Many political leaders critiqued that the provincial and local governments are not allowed to govern independently. The federal government is reluctant to devolve power to the province and local. Besides it, high corruption, misuse of proportional inclusion, frequently changing political system and distrust of political leaders have backslide the goal of federalism. Thus, the safeguard of regional autonomy along with ensuring that all the community's benefit from federalism remains under threat.

c. Demarcation of Provincial Borders and Naming of Provinces: Unresolved

issue of demarcation of provincial borders and naming of provinces is one of the most contentious issues in Nepal following the nomenclature of the seven provinces. For instance, in Koshi province⁴⁷, people and political groups are still demanding culturally and historically significant names that reflect their identity and historical background of the province. High levels of dissatisfaction have been observed among pro-identity groups and several ethnic identity movements and demonstrations are ongoing within the province and at Kathmandu valley.

- d. Demands for 2015 Constitutional Amendment:** Demands for 2015 constitutional amendment is another challenging concern in Nepal. Previously, many groups were dissatisfied following the enactment of the new constitution in 2015. Indigenous people, Dalits, women, people with disabilities, Madhesi group and other marginalized group have expressed disagreements and dissatisfaction on the number of constitutional provisions and demanding to rethink about proportional representation system. For instance, Madhesi people are demanding more representation in national politics (Bhatta, 2024).⁴⁸ Such unhappy groups and political parties are desperately waiting for their issues to be addressed by the future amendments in the constitutional provisions. When constitutional amendment and reform is taking place, inadequate consultation and poor preparatory work, mishandling or avoiding these issues may lead to the rise of another constitutional crisis and political instability within the country.

4.2. Agenda for Justice

Judicial Committees: Judicial Committees (JCs), instituted under the Article 217 of the Constitution of Nepal as the local non-court dispute settlement mechanism are the judicial arm of each local governments (Adhikari, 2020). It is not in the formal hierarchy of the law courts of Nepal; however, it supports the formal legal structures in enhancing access to justice.

The constitution has envisaged the creation of Judicial Committees in each of the 753 local level units. They will be headed by the deputy mayor in municipalities and by the deputy chairperson in rural municipalities, and deliver justice on specific disputes. The three-member Judicial Committee will consist of two members elected by the members of the Village Assembly or Municipal Assembly from among themselves. The purpose behind this constitutional provision is to ensure that justice is home-delivered, in every sense of the word (Pradhan, 2018). The very idea of federal restructuring of Nepal was driven by the desire to decentralize and devolve authority and power.

The Judicial Committee has been empowered to settle disputes related to 13 specific matters. They include property boundary disputes, ‘sandhi sarpan’ (inconvenience with respect to boundary or way out), ‘aali dhur’, canals, dams,

⁴⁷ DRCN-PSU-1_Ethnic-Identity-Movement-After-the-Naming-of-Koshi-Province-and-Its-Potential-Implications_English_September-2023.pdf

⁴⁸ Constitutional Amendment: Managing Pandora’s Box for Nepal – The Diplomat

ditches or allocation of water and encroachment on roads or way out; disputes about compensation for damage to crops; disputes about payment of wages; disputes about lost and found cattle; and other disputes designated by federal and provincial laws (Pradhan, 2018). The local level Judicial Committee can adjudicate these disputes; but the decision can be appealed to the District Court. Additionally, the Judicial Committees also have the power to settle some disputes through mediation.

However, the judicial committees seem to be mired with problems. A recent study by the Nepal Law Society (NLS) shows that out of total disputes, only around 15 percent tend to be registered in proper court and judicial authorities. Even then, there are around 100,000 pending cases at different levels of court (Pradhan, 2018). There is a lack of clarity whether local level judicial committees are quasi-judicial bodies or local courts. There is also a lack of clear set of procedures and guidelines while adjudicating. The other issue is the assumption of office-bearers of judicial committee to have basic legal training. They lack the capacity and confidence to lead the judicial committee, hence they need to be provided with legal training in order to provide service. There is a need for ward level mediation centers to refer the disputants to.

Accessibility and Capacity of the Judiciary: The court system in Nepal remains inaccessible to many citizens due to insufficient geographic proximity and limited resources within the judicial system. Traditional attitudes and a lack of gender sensitivity among all justice actors, as well as a lack of gender responsive services are major barriers to justice. Thus, there is a need to improve the capacity and training of judges, prosecutors, and legal professionals to handle the complexities of the justice system, particularly in addressing human rights violations and conflict-era crimes.

Rule of Law and Accountability: Impunity remains a major issue, as the political elite often avoid consequences for illegal actions due to the president's broad pardon powers and weak enforcement of the rule of law. There are concerns about the lack of prosecution for well-documented conflict-related crimes, as the transitional justice system has allowed for amnesties, despite Supreme Court rulings against this. (Human Rights Yearbook, 2024)

Transitional Justice Reforms: The government has proposed a new transitional justice bill, but it has faced criticism for failing to meet international standards and victims' needs, such as excluding certain serious crimes from prosecution. Debates continue around balancing the right to truth and the right to justice, as well as the appropriate sequencing of transitional justice mechanisms like truth commissions and prosecutions.

Victim-Centered Justice System: Advocates have emphasized the importance of adopting a victim-centered approach in the justice system, ensuring that victims' needs and perspectives are prioritized. Challenges remain in addressing barriers faced by victims, such as lack of legal awareness, gender and caste discrimination,

and geographic and linguistic barriers.

Judicial Independence and Interference: There are concerns about political and economic interference in the judicial process, which undermines the independence and effectiveness of the justice system. Corruption scandals and the transfer of senior police officers leading investigations have raised questions about the integrity of the justice system.

Social justice:

In Nepal, the pursuit of social justice is deeply intertwined with the challenges faced by marginalized and vulnerable communities. For instance, the informal workforce, migrant laborers, Dalit groups, and indigenous populations all experience distinct barriers to access, equity, and security. Moreover, environmental and climate-related challenges disproportionately impact these populations, further exacerbating existing vulnerabilities. Reports also state that in times of crisis, these groups are the most vulnerable to experiences of injustice, exclusion and violence.⁴⁹

As Nepal continues to grapple with such issues of inequality, there is a growing recognition of the need to address the systemic gaps that limit opportunities for these groups.

Hence, this section explores specific challenges faced by these marginalized groups, highlighting the urgent need for policies and interventions that promote inclusive socioeconomic development and address systemic social injustices-

a. Informal Workers: A broad concept of the informal sector includes units engaged in the production of goods and services with the primary objectives of generating employment and incomes for the persons concerned. Yet, these units typically operate at a low level of organization, with little or no division between labor and capital as factors of production and on a small scale. In Nepal, almost 62.2% of Nepal's working population- i.e., more than 4.4 million Nepalese are involved in the informal sectors and even within the formal sectors, about 1.5 million workers are informally employed (CSC, 2021). The issues of informal workers today hence commemorate the wellbeing of more than six million Nepali workers and their families. These workers are already working in precarious conditions in deprivation of fundamental workers' rights and absence of social security, facing threats of being pushed to the deeper end of poverty. A peace agenda addressing the vulnerabilities of Nepal's informal sector must prioritize inclusive socioeconomic reforms that ensure dignity, security, and equity for all workers. Central to this agenda is the establishment of a comprehensive social protection framework that safeguards fundamental workers' rights, enhances access to healthcare, education, and financial security, and provides pathways to formal employment. Also, strengthening dialogue platforms for workers'

⁴⁹ Under The Shadows of Informality: A Vulnerability Assessment of Informal Sector Workers of Nepal - CSC

representation and addressing systemic inequities tied to gender, caste, and geography are vital for fostering the core values of labor rights that have multifaceted links to democratic wellbeing of a Nepali citizen (CSC, 2021).

- b. Internal and Foreign Labor Migrants and Displaced Population:** Better, easy and safer socio-economic reintegration remains challenging for internal, returnee and displaced population in a migrant receiving community. Their participation in the skill development initiatives and other development opportunities is complex and lacking due to migratory/returnee/internally displaced status. The inclusive and stable reintegration, rehabilitation and development policies and programs along with community support is a dire need of them to prevent them from being trapped again in cycle of abuse, mobility and left behind. Both the local and national government must prioritize leveraging the skills and capital acquired by migrant workers abroad to create sustainable dignified self-employment opportunities and boost local and national economic development growth (Gorkhapatra, 2024).
- c. Dalit and other marginalized groups access to public services and other opportunities provided by the state:** By implementing affirmative action programs and anti-discrimination laws, governments have addressed the systemic barriers that prevent Dalits from accessing education, employment, and other opportunities. The Constitution has formally abolished caste-based discrimination and established the right to equality as one of its fundamental rights. It prohibits discrimination based on caste and encourages the rightful representation of marginalized communities. The Constitution has mentioned fundamental rights such as the right to have a dignified life, the right to equality, the right to freedom, the right against untouchability and discrimination, the right of Dalit, the right to social security, and the right to social justice. Besides, the constitution has assured proportionate representation in every organ of the state including executives, legislative, local bodies, and other constitutional bodies.⁵⁰
- d. The Caste Based Discrimination and Untouchability (Offense and Punishment) Act, 2011** has criminalized caste-based discrimination and untouchability practices and outlines the penalties for the offender but not limited to adequate compensation for the victim. Similarly, the provisions under National Penal Code, 2017 are also significant to deter violence against caste discrimination and offenses against defamation. Apart from these, other laws relating to labor, education, local government operation, land reform, civil service, and social security Act are imperative in terms of the empowerment of Dalit community. Additionally, the National Dalit Commission, under Article 255 of the Constitution, is a constitutional body that monitors and promotes the rights of Dalit and has a recommendatory authority to the government of Nepal to review various laws and policy pertinent to Dalits' concerns.

- e. Environmental/Climate Justice:** With over a third of the population comprising indigenous communities who uphold the belief that the earth is borrowed from future generations, the Nepal's environmental challenges demand urgent, collective action rooted in climate justice. This perspective emphasizes fair distribution of environmental benefits, as well as the burdens across all communities, recognizing the disproportionate impact of climate change that falls on marginalized and vulnerable populations. Recent events and discourse show that youth are stepping into leadership roles in advocacy and demands for intergenerational climate justice and sustainable policies that ensure the right to a clean, safe, and equitable environment for everyone. However, persistent environmental conflict, especially over resource access, pollution, and degradation amplify the risks of social unrest and inequities. Therefore, bridging the gap between generations, integrating indigenous wisdom with contemporary climate solutions, and empowering communities through green jobs and civic engagement are essential steps toward fostering human-nature harmony. These interconnected challenges thus must be approached and addressed with a rights-based and climate-just approach, as Nepal has tremendous opportunity to transform its environmental vulnerabilities into a foundation for enduring peace and resilience (Khadka et al., 2024)

4.3. Agenda for Inclusion

Development of inclusive society on the grounds of gender, caste/ethnicity, religion and culture remains challenging in Nepal. The prevalence of inequality, discriminations, and intersectional discriminations in society has had a profound impact on the goals of inclusion within communities. These issues manifest in various forms such as oppression, patriarchal mindset, negative social attitudes, and stigmatization based on factors like gender, caste/ethnicity, language, religion, culture, socio-economic status, migratory status, disability, belief, and sexual orientation.

For example, gender inequality is evident in the wage gap between men and women in many workplaces, where women are often paid less for the same work. Caste discrimination can be seen in the unequal access to resources and opportunities faced by individuals from marginalized castes. Linguistic discrimination occurs when individuals are judged or treated unfairly based on their language proficiency, limiting their social and economic prospects.

Additionally, individuals belonging to certain religions or cultures may face prejudice and exclusion, hindering their full participation in society. Socio-economic status can also serve as a barrier to inclusion, as those from lower-income backgrounds may lack access to quality education and healthcare. Additionally, individuals with disabilities often encounter physical and attitudinal barriers that prevent them from fully engaging in various aspects of life.

Furthermore, beliefs and sexual orientation can lead to marginalization and

discrimination, creating a hostile environment for those who do not conform to societal norms. The cumulative effect of these intersecting forms of discrimination undermines the efforts towards creating inclusive communities where every individual is valued and respected.

Addressing these systemic issues is crucial in promoting true inclusion and diversity within society. It requires a collective effort to challenge discriminatory practices, dismantle oppressive structures, and foster a culture of equality and acceptance for all individuals, regardless of their background or identity. Only through such concerted actions can we truly achieve a more inclusive and equitable society for everyone.

Horizontal as well as vertical inclusion is crucial in promoting diversity and equality within society. Inclusion should not only be limited to one direction but should be observed both horizontally, from local to national levels, and vertically, across different sectors. It is essential to ensure that all individuals, regardless of their background or identity, have equal opportunities and representation in various aspects of society.

Political Inclusion: The quota-based representation system provisioned in the new governance structure has created an opportunity for people to elect the leaders of their communities. The quota system guaranteed in the new constitution has positive effects on Nepali politics. From one perspective, it has greatly increased the representation of women and Dalits in democratic processes, and contributed to an increase in the confidence of thousands of these people who contested elections and those who got elected through a democratic process. They are an integral part of society, and this system allows them to assume their duty to their communities by representing and raising their issues and concerns.⁵¹ However, there are clear barriers to achieving equal parity within politics for women and Dalit leaders in local governments. The disinterest and lack of willingness in terms of support from political parties are barriers that curb democratized candidacy from marginalized groups. Deeply ingrained patriarchal mindsets limit opportunities for women and Dalits to take on leadership roles, join politics, and stand for election. People from ethnically marginalized communities lack the same resources in education, finance, and connections that people from the so called upper-caste communities do. Similarly, lack of knowledge of political processes and unawareness of reform processes are barriers to women and Dalits' meaningful participation in the electoral process and the fight for candidacy.⁵²

Fairness, Accountability and Effectiveness of Proportional Electoral system in Nepal: Inclusivity as envisioned by the constitution is still not achieved completely. Question is raised regarding the fairness, accountability and effectiveness of proportional electoral system in Nepal due to the misuse of this provision while selecting the candidates through political party structure. Despite mandatory

51 Bhattarai, Prakash (2024). *How does federal governance structure contribute to increase the representation of marginalized groups in democratic processes at the local level?*, paper presented at GLD Annual Conference, Gothenburg, Sweden on 20-23 May 2024.

52 Ibid

provisions, profound representation of the underrepresented, marginalized, repressed and disadvantaged group in the mainstream politics and governing bodies is lacking due to political parties' hostile and mean decisions to select the most appropriate candidate through proportional inclusion. On the contrary, some of the political parties debate that proportional electoral system is one of the major causes of political instability in the country (Tharu, 2023).

Social Inclusion: Social inclusion directly contributes to social cohesion, economic stability, and the prevention of conflict by addressing historical inequalities that fuels conflict and social unrest. The decade-long civil war (1996-2006) underscored the importance of including marginalized groups, such as Dalits, Adivasi Janajatis, and Madhesi, in the nation-building process. The World Bank emphasizes that addressing systemic inequalities is essential for sustainable development and peace, as social exclusion can impose significant economic costs and hinder overall societal progress.⁵³ Nepal has made various progress in incorporating social inclusion in its plans and policies. Despite these efforts, challenges remain in implementing inclusive policies effectively, particularly in remote areas where traditional norms persist. Moving forward, Nepal needs to strengthen legal frameworks to protect marginalized communities, enhance educational initiatives that promote understanding of diversity, and actively involve these groups in decision-making processes. By embedding social inclusion into peacebuilding efforts, Nepal can create a more cohesive society that addresses historical grievances and fosters lasting peace.

Economic Inclusion: The issue of economic inclusion should be a critical focus of peace agendas, particularly in Nepal, where socioeconomic disparities fuel social tensions and eventually conflict. Economic exclusion nurtures limitations of opportunities for marginal groups, increased poverty, and inequality, which further spark unrest and violence. The World Bank identifies addressing grievances over exclusion from economic opportunities as a necessary ingredient in the prevention of violent conflict and the attainment of sustainable peace.⁵⁴ Further, inclusive economic policies ensure social cohesion and stability through promoting education, jobs, and other accesses. According to the IMF, “economically empowering women will also build resilience and reinforce financial stability, along with boosting economic growth” in a country affected by conflict⁵⁵. These numerous other initiatives toward economic inclusion, such as improving women’s workforce participation or promoting small-scale entrepreneurship in a country like Nepal, also continue unabated.

Yet, many challenges remain, including systemic barriers to equitable access to resources and opportunities. Going forward, multi-dimensional economic inclusion in Nepal should focus on strategies that will improve access to education and vocational training, incentivize decent work, and develop public-private sector partnerships. This is how economic inclusion will be institutionalized

53 Social Inclusion

54 peacerep.org/2018/01/18/ending-the-political-transition-analysing-the-nepal-elections-from-an-inclusion-perspective/

55 Ending the Political Transition? Analysing the Nepal elections from an inclusion perspective - PeaceRep

within Nepal's peacebuilding processes with an added outcome of redressing historical injustices toward lasting peace.

Community driven approach to Inclusion: the discourse around inclusion in Nepal is concentrated around the political and bureaucratic representation of women, Dalits, Madheshi and other marginalized groups. However, there has been very little discussions and efforts around community driven approach to inclusion, through which we can observe inclusive local institutions and services in all aspects. A community driven or a local approach to inclusion has potential to make both the state and non-state-based institutions highly inclusive in the long run. With the participation of people representing different segments of society, a community driven approach to inclusion can also contribute to enhance the quality of public services offered by the local public institutions. This approach further contributes to prepare locally grounded socio-political leaders who are well connected with local issues faced by different segments of society.

To conclude the aspiration of this knowledge book, it is critical to understand that the path towards sustainable development of a nation is strongly dependent on the delicate balance of peace, justice, and inclusion. This constructive interaction must be built upon a foundation of comprehensive support for individuals and communities experiencing violence, injustice, and exclusion. Both state and non-state institutions active in these field should ensure that individuals and communities who are prone to violence, injustice and exclusion can quickly access the services and resources required for healing and rebuilding their lives.

Structural violence is a pressing issue that demands systemic changes to eliminate inequalities and guarantee equal opportunities for all individuals. To address this complex problem effectively, various steps must be taken. One crucial aspect involves implementing economic reforms that aim to eradicate poverty and inequality by ensuring a just distribution of resources. For example, policies that prioritize fair wages and social welfare programs can significantly impact marginalized communities by lifting them out of poverty and providing a more stable economic foundation.

Likewise, eliminating gender-based violence against women is a crucial step towards creating a more just and equitable society. This involves not only addressing physical violence but also tackling underlying issues such as psychological abuse and economic exploitation. For instance, providing shelters and support services for victims of domestic violence can help break the cycle of abuse and empower women to seek help. At the same time, fostering a more inclusive society requires intensive efforts to shift societal attitudes towards marginalized, and minority groups. Community based sensitization and dialogue initiatives are essential for educating the public about the challenges these groups face, encouraging empathy, and promoting inclusive behavior. This awareness should be complemented by long-term efforts to dismantle systemic barriers to equality, ensuring that all community members have access to the same opportunities and protections.

Furthermore, adopting zero tolerance to caste-based discrimination is imperative to create a more inclusive and equitable society. This involves challenging deep-rooted prejudices and stereotypes that perpetuate discrimination based on caste or social status. By promoting awareness and education, societies can work towards eradicating discriminatory practices and promoting equality for all. Since Nepal already has certain laws and policies in place, the sensitization and dialogue initiatives will provide a platform for a discourse among citizens themselves, which will result in social transformation.

Thus, addressing structural violence requires a multifaceted approach that encompasses economic reforms, educational empowerment, and legal protections. By taking focused action to tackle these issues, our society can strive towards a more equitable and just future for all its members.

The development of legal and institutional capability of provincial and local governments is crucial to ensure effective governance and service delivery at the grassroots level. This may involve capacity building for local officials, improving coordination between different levels of government, and promoting citizen participation in decision-making processes. By empowering local governments to effectively address the needs of their communities, societies can promote inclusive and participatory development. Their capacity enhancement will eventually lead to improved access to prompt and effective justice to uphold the rights of all individuals and ensure accountability for perpetrators of violence and injustice.

Likewise, the recent amendment of the Transitional Justice Bill has revived the hopes of the survivors of the conflict. Although it is a positive step towards achieving justice, it is not devoid of criticisms. There are certain sections in the bill that is not victim-centric, and does not meet the international human rights standards. It clearly shows that there was a lack of meaningful consultations with victims to incorporate their crucial feedback to the bill. This seems like a missed chance to enhance the credibility of Nepal's transitional justice process. However, this can be undone by making amendments to the bill but to do so requires political will.

Nepal's journey towards inclusivity appears commendable on the surface. The country grappled with inequalities related to gender, caste, ethnicity, region, and religion. The post conflict phase has witnessed the erosion of social taboos regarding caste, albeit there is still ample room for progress (Mainali & Bhattarai, 2024b). Inclusivity is crucial for the construction of a fair and just society. It plays a pivotal role in ensuring that all individuals, regardless of their background or identity, have equal opportunities and representation.

Although enshrined in the constitution and other acts of the country, there is a lot of changes required in guaranteeing that the marginalized groups are proportionally represented in political and decision-making processes. As representation stands as a cornerstone in fostering inclusivity it must be ensured that women, ethnic and religious minorities, people with disabilities and LGBTQ+

individuals have a seat at the table to lead policies that better reflect the diverse needs of society. Policy Reforms are another essential aspect of promoting inclusivity. By implementing policies that prioritize gender equality and social inclusion (GESI) across all sectors, societies can address systemic barriers and create a more level playing field for all individuals. However, our society also needs behavioral transformation to be more accepting and non-discriminatory towards the marginalized members of the community.

Finally, community-based organizations can play a pivotal role in this process, serving as platforms for marginalized voices and advocating for policies that reflect their needs. These organizations not only empower individuals, but also facilitate peace-building by strengthening social cohesion, promoting transparency, and fostering accountability.

Therefore, by aligning efforts to promote justice, inclusion, and peace, Nepal can create a more equitable society where every individual's rights are upheld, and every community member has a voice in shaping their future.

References

- About inclusive education — New Jersey Coalition for Inclusive Education.* (n.d.). New Jersey Coalition for Inclusive Education. <https://www.njcie.org/about-inclusive-ed>
- ACT - National Dalit Commission.* (2017). <https://ndc.gov.np/pages/act?lan=en>
- Adhikari, B. (2016). *Salient Features of the Constitution of Nepal, 2015*
- Adhikari, B. (2020). *Judicial Committees at Local Level: A Review*
- Alexander, M. (2012). *The New Jim Crow: Mass Incarceration in the Age of Colorblindness.* New York: The New Press.
- Amnesty International. (2024, August 22). *Nepal: New transitional Justice Law a flawed step forward.* <https://www.amnesty.org/en/latest/news/2024/08/nepal-new-transitional-justice-law-a-flawed-step-forward/>
- Author. (n.d.). *Nepal reaffirms its commitment to social justice, says President Paudel.* <https://en.nepalkhabar.com/news/detail/9715/#:~:text=President%20Ramchandra%20Paudel%20has%20said%20that%20Nepal%27s%20constitution,at%20the%20core%20of%20the%20International%20Labor%20Organization.>
- Bharti, S. C. (2024). Origin and growth of madhesi movement in Nepal. *Jnu.* https://www.academia.edu/39887961/Origin_and_Growth_of_Madhesi_Movement_in_Nepal
- Bhatta, M. (2024, October 7). Constitutional Amendment: Managing Pandora's Box for Nepal. *The Diplomat.* <https://thediplomat.com/2024/10/%e2%80%8b%e2%80%8bconstitutional-amendment-managing-pandoras-box-for-nepal/>
- Caste Based Discrimination and Untouchability Act (2011). *Lawneeti Associates.* <https://lawneeti.com/publications/key-provisions-of-caste-discrimination-and-untouchability-act-2068>
- CBS (2011). *Nepal Living Standard Survey: Statistical Report, Volume Two, National Planning Commission.*
- Census leaves out the count of queer population with no data on them. (2022, February 5). *The Kathmandu Post.* <https://kathmandupost.com/national/2022/02/05/census-leaves-out-the-count-of-queer-population-with-no-data-on-them>
- Civil Service Act, 2049 (1993). Retrieved from Nepal Law Commission; Civil service Act, 2049 English (lawcommission.gov.np)
- Constitution of Nepal (2072). *Government of Nepal, (2072)*, Ministry of Law and Justice and Parliamentary Affairs, Law Books Management Board.
- Commissioned to fail. (2024, December 9). *The Kathmandu Post.* <https://kathmandupost.com/editorial/2024/12/09/commissioned-to-fail-1733762143>
- Danish Institute for Human Rights (2012) *Informal Justice Systems: Charting a Course for Human Rights-Based Engagement.* UNDP, UNICEF and UN Women
- Develop Diverse (n.d.). *What is social inclusion? – Learn everything you need to know.*
- Dhakal, S. (2018). An Assessment of the Causes of the Madhesh Movement 2015. *KMC Research Journal*, 2(2), 31-48.
- Domestic Violence (Offence and Punishment) Act, 2066 (2009).* *Nepal Archives.* (n.d.). <https://>

- www.nepalarchives.com/content/domestic-violence-offence-and-punishment-act-2066-2009/
- Election Commission Act (2017). *Nepal Law Commission*.
- <https://lawcommission.gov.np/content/11970/11970-local-level-election-act-2073/>
- “Employment opportunities should be created within the country.” (2024). Gorakha / Patra. <https://risingnepaldaily.com/news/53925>
- Fujikura, T. (2023). *Terms Of Inclusion: Notes On Tharu Indigenous Activism After 2015*
- Galtung, J. (1969). Violence, Peace and Peace Research in *Journal of Peace Research*, 6(3), 167-191.
- Galtung, J. (1976). Three realistic approaches to peace: peacekeeping, peacemaking, peacebuilding in *Impact of Science on Society*, 26(1/2), 103-115.
- Galtung, J. (1996). Peace by Peaceful Means: Peace and Conflict, Development and Civilization. PRIO.
- Gellner, D. (2014). The 2013 Elections in Nepal. *Asian Affairs*. <https://doi.org/10.1080/03068374.2014.909627>
- Gender Equality and Social Inclusion Policy. (2021). *National human Rights commission Nepal*. https://www.nhrcnepal.org/law/plan_policy
- Generis Global Legal Services. (2024). *A comprehensive overview of the legal system in Nepal*. <https://generisonline.com/a-comprehensive-overview-of-the-legal-system-in-nepal/>
- Ghimire, B (2024). Nepal’s transitional justice shortlist sparks controversy. *The Kathmandu Post*. <https://kathmandupost.com/national/2024/12/08/nepal-s-transitional-justice-shortlist-sparks>
- Gyawali, R. (2014, July 26). Nepal’s constitutional problem: A recap. *SpotlightNepal*. <https://www.spotlightnepal.com/2014/07/26/nepals-constitutional-problem-a-recap/>
- Gyawali, G. P. (2018). Federalism: Challenges and opportunities in Nepal. *Molung Educational Frontier*, 8, 37-48.
- Hangen, S. I. (2010). *The Rise of Ethnic Politics in Nepal: Democracy in the margins*.
- Hayes, A., Gray, M., & Edwards, B. (2008). *Social inclusion: Origins, concepts and key themes*.
- Hills, J., Grand, J., & Piachaud, D. (2002). *Understanding social exclusion*. Oxford: Oxford University Press.
- Human Rights Watch (2024). <https://www.hrw.org/world-report/2024/country-chapters/nepal>
- Hutt, M. (1991). *Nepal in the Nineties: Versions of the Past, Visions of the Future*. Oxford University Press.
- (Indigenous Nationalities Commission, 2080). Fourth Annual Report FY.079/80. Retrieved from Indigenous Nationalities Commission; Indigenous Nationalities Commission (inc. gov.np)
- International community welcomes transitional justice bill authentication. (2024). *The Kathmandu Post*. <https://kathmandupost.com/national/2024/08/29/tj-bill->

authentication-receives-international-applause

- Joshi, B., & Rose, L. E. (1966). *Democratic Innovations in Nepal: A Case Study of Political Acculturation*. University of California Press.
- Khadka, S., Puri, S., Bhattarai, P., Magar, K. R., Khatri, A., & Sayami, D. (2024). Understanding the interrelations between natural resources and development governance in federal Nepal. *World Development Perspectives*, 34, 100597. <https://doi.org/10.1016/j.wdp.2024.100597>
- Khanal, A. (2023, November 23). History of Nepal: From ancient kingdoms to a federal republic. *Nepal Database*. <https://www.nepaldatabase.com/history-of-nepal-from-ancient-kingdoms-to-a-federal-republic>
- Local Government Operation Act (2017). Law books management board, Babarmahal, Kathmandu
- Longley, R. (2022). *What is retributive justice?* ThoughtCo. <https://www.thoughtco.com/what-is-retributive-justice-5323923>
- Mainali, R., & Bhattarai, P. (2024b). Nepal's peace process. *In Routledge eBooks*. <https://doi.org/10.4324/9781003289876>
- Martin Chautari. (2013). *The debilitating dynamics of Nepal's Constituent Assembly (2008-2012)*. <https://martinchautari.org.np/mc-publications/16>
- Maurya, S. K. (2021). The Concept of Justice in Reference with Philosophies of Plato and Aristotle: A Critical Study. *Journal of Liberty and International Affairs Institute for Research and European Studies - Bitola*, 7(3), 250–266. <https://doi.org/10.47305/jlia21370250m>
- Muslim Commission Act. (2017). Muslim Commission.* (n.d.). <https://muslimcommission.gov.np/content/2460/2460-muslim-commission-act-2074/>
- Navigating transitional justice dilemmas in Nepal.* (2024). Berghof Foundation. <https://berghof-foundation.org/news/transitional-justice-dilemmas-nepal>
- Nepal: Transitional Justice Bill Needs to Protect Victims, not Abusers. (2023, March 24). *Human Rights Watch*. <https://www.hrw.org/news/2023/03/23/nepal-transitional-justice-bill-needs-protect-victims-not-abusers>
- Nepal Human Rights Year Book 2023 – Informal Sector Service Centre.* (n.d.). <https://www.insec.org.np/hr-yearbook/nepal-human-rights-year-book-2023/>
- Nepal Law Commission (2017). *National Indigenous Nationalities Commission Act, 2074 (2017)*. Retrieved from Nepal Law Commission; National-Indigenous-Nationalities-Commission-Act-2074-2017.pdf (lawcommission.gov.np)
- (Nepal Law Commission, 2002). National Foundation for Upliftment of Aadibasi/Janjati Act, 2058 (2002). Retrieved from Nepal Law Commission; National Foundation for Upliftment of Adibasi/Janjati Act, 2058 (lawcommission.gov.np)
- New York University School of Law (n.d.) *Research Guide of the legal system of Kingdom of Nepal*. GlobaLex | Foreign and International Law Research. <https://www.nyulawglobal.org/globalex/Nepal.html>
- (NPHC, 2021). *National Population and Housing Census 2021: National Report on caste/ethnicity, Language & Religion*. Retrieved from National Statistics Office; Caste/ Ethnicity Report | National Population and and Housing Census 2021 Results (cbs.gov.np)

- PeaceRep. (2018, January 18). *Ending the Political Transition? Analysing the Nepal elections from an inclusion perspective*. PeaceRep. <https://peacerep.org/2018/01/18/ending-the-political-transition-analysing-the-nepal-elections-from-an-inclusion-perspective/>
- Political Party Act (2017). *Nepal Law Commission*. <https://lawcommission.gov.np/content/11977/11977-political-party-act-2073/>
- Pradhan, K. (2018, February 7). Judicial committees. *The Kathmandu Post*. <https://kathmandupost.com/opinion/2018/02/07/judicial-committees>
- Online violence against women in Nepali politics rising: Study. (2024, December 16). *The Kathmandu Post*. <https://kathmandupost.com/national/2024/12/16/online-violence-against-women-in-nepali-politics-rising-study>
- Qiyong, G. (2013). On Confucian political philosophy and its theory of justice. *Frontiers of Philosophy in China*, 8(1), 53–75. <https://doi.org/10.3868/s030-002-013-0005-0>
- Richmond, O. P. (2023). *Peace: A Very Short Introduction, Second edition*. Oxford: Oxford University Press.
- Richmond, O. P. (2024). *The Transformation of Peace Second Edition* (Vol. Rethinking Peace and Conflict Studies). (O. p. Richmond, A. Björkdahl, & G. Visoka, Eds.) Switzerland: Palgrave Macmillan Cham.
- Silver, H. (1994). Social Exclusion and Social Solidarity: three paradigms. *ResearchGate*.
- Shrestha, T., Wagle, N., (2019). *Judicial Committees in Nepal, A closer look*
- Soken-Huberty, E. (2023, February 2). *What is justice?* Human Rights Careers. <https://www.humanrightscareers.com/issues/what-is-justice/>
- Standish, K., Devere, H., Suazo, A. E., & Rafferty, R. (Eds.). (2022). *The Palgrave Handbook of Positive Peace*. Singapore: Springer Nature Singapore Pte Ltd.
- Tharu Commission Act, (2017)*. *Nepal Law Commission*. (n.d.). <https://lawcommission.gov.np/content/12882/12882-tharu-commission-act-2017/>
- Tharu, D. D. (2023, July 30). Nepali Congress leaders' call for review of proportional election system creates buzz. *Online Khabar*. <https://kathmandupost.com/politics/2023/07/30/nepali-congress-leaders-call-for-review-of-proportional-election-system-creates-buzz>
- The Editors of Encyclopaedia Britannica. (1998, July 20). *Egyptian law. Ancient Legal System & Customs*. Encyclopaedia Britannica. <https://www.britannica.com/topic/Egyptian-law>
- The Sexual Harassment at Workplace (Prevention) Act, 2071 (2014) (Nepal)*. *ADB's Law and Policy Reform Program*. <https://lpr.adb.org/resource/sexual-harassment-workplace-prevention-act-2071-2014-nepal>
- Under the Shadows of Informality: A Vulnerability Assessment of Informal Sector Workers of Nepal - Center for Social Change*. (2021, December 27). <https://socialchange.org.np/publications/under-the-shadows-report-2021/>
- United Nations Office of the High Commissioner for Human Rights (2012). *Nepal Conflict Report*.
- United Nations (2006). *Nepal Comprehensive Peace Accord*. Available at UN Peacemaker
- World Bank. 2013a. *Inclusion Matters: The Foundation of Shared Prosperity*. Washington, DC: World Bank.

WJP Rule of Law Index. (n.d.). <https://worldjusticeproject.org/rule-of-law-index/country/2024/Nepal/Constraints%20on%20Government%20Powers/>

About Centre for Social Change

Centre for Social Change (CSC) is a non-profit making social think-tank based in Kathmandu, Nepal.

Since its establishment in 2015, CSC has been actively working to bring positive transformation in the socio-political dynamics of Nepali society through involvements in the fields of research, development practice, education, advocacy, and community mobilization. CSC's current works are focused on issues surround conflict transformation, peacebuilding, democracy and governance, migration, labor and employment, civic space, civil society development, public policy, climate change, and social development.

For questions, collaborations, or further information please feel free to get in touch at:

Centre for Social Change

www.socialchange.org.np

contact@socialchange.org.np