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1. Introduction

Some verdicts and interim orders by the Supreme Court, High Courts and District Courts raised the people's hope towards judiciary in the year of 2023. By letting the acting chief justice run the judiciary for long indicated the executive's intent not to maintain independency of judiciary. If there's power imbalance among Judiciary, Executive and Legislature any of these three sectors cannot perform up to the people's expectation. But there are some anecdotes of the executive undermining the judiciary this year as well. Even Supreme Court verdicts and orders stopped the government's monopoly writ petitions filed at the Supreme Court demanding the protection, promotion and fulfillment of human rights and fundamental rights of people were not addressed. The court cases continued to pile up as justices are not appointed in time in the context of increased cases. Some orders related to granting amnesty and case withdrawal and verdict related to government formation in Koshi province will have impacts in the long run. However, some verdicts were against jurisprudence and precedents set by the judiciary. So, they have raised questions regarding impartiality, fairness and neutrality. Writ petitions were filed at the court against the government decision to ban TikTok, the popular video short sharing mobile app. Order to grant citizenship in the name of mother was in line with the spirit of the Constitution and it has addressed the gender-based discrimination that women were facing for long. The beginning of automatically scheduling cases in the supreme court, action taken against some incompetent justices and some verdicts with historic importance have raised the public's hope.

The Constitution of Nepal has entrusted the full responsibility to work in accordance with the Constitution, law, principles of justice and judicial bodies

and entire judicial administration. The annual report of the Supreme Court published in the fiscal year 021-22 has mentioned that Nepal's judiciary is committed towards constitutional arrangements made by the laws and legal principles and to focus its activities towards making the judiciary easier, more effective, accessible and trustworthy.

Independent judiciary is considered as a pre-condition of democratic system. The Universal Human Rights Declaration has put forth the concept of ensuring effective justice from competent courts in case individual rights ensured by Constitution and law are violated. International Covenant on Civil and Political Rights 1966 has ensured timely hearing of cases. Considering the free, fair and competent judiciary as the basic of the Constitution, the article 126 of the Constitution has a provision of ensuring powers relating to justice in Nepal shall be exercised by courts and other judicial bodies in accordance with this Constitution, other laws and the recognized principles of justice.

This year, attention of entire country was drawn towards judiciary because of delay in justice appointment, verdicts and orders related to a statutory rape case and amnesty granted by head of the government to persons convicted of killing.

Like previous years, several cases filed at the court were unsettled. Details provided by the Supreme Court show 4,020,086 cases, writ petitions, appeals and special applications were registered in the courts across the country in the fiscal year 2022-23. Of them, 33.55 % i.e 164,762 cases were not settled. Execution of the court judgements was also not satisfactory in this year.

This chapter tries to cover some remarkable judgements carried out by the courts from 31 December 2022 to 31 December 2023.

2. Verdicts and Orders relating to Fundamental Rights

Fundamental rights are considered the highest level of rights among other rights. They are the highest standard of rights as individuals are free to seek justice from the Supreme Court in case of violation of fundamental rights. These legal provisions are established due to the lengthy nature of regular court procedures, which may result in irreparable harm to people's lives if followed in cases of fundamental rights violations. This article examines recent decisions, verdicts, and orders issued by the Supreme Court, High Courts, and District Courts aimed at implementing and protecting fundamental rights.

2.1 Right to Live Dignified Life

Article 16 (1) of the Constitution of Nepal has ensured right to live with dignity. On July 28, an infant died in Humla after the Civil Aviation Authority of Nepal stopped flights of 29 airports after 12 pm. Because of civil aviation authority's decision, an infant who was supposed to be airlifted to Surkhet for treatment died in Humla.

A writ petition was filed at the Patan High Court. The court on September 5 issued a show cause notice. The writ petition has mentioned that a six-month baby, died due to a decision made by the civil aviation authority. The civil aviation authority's decision, especially for the districts where flight is the only travel option, was impractical. The ban was lifted after the court order.

Prisons are overcrowded. Inmates are deprived of getting basic human rights. Given this context, INSEC had filed a Public Interest Litigation, PIL, at Morang High Court, Biratnagar, demanding basic rights of inmates in Morang District Jail. In response to the PIL, the court gave priority to the proceeding and emphasized the need to protect the rights

of prisoners and underscored the sensitive nature of the subject matter. An order was issued in the name of defendants to submit a written reply within 15 days in accordance with the established rules. With this order, the issue of jail reform—the issue always included in policies and programs has come into the limelight once again and the government is warned.

2.2 Right to Freedom

Article 17 (2) of Constitution has provided every citizen with the right of opinion and expression, freedom to assemble peacefully and without arms, freedom to form political party, freedom to form unions and associations and freedom to move and reside in any part of Nepal and freedom to engage in any occupation or be engaged in employment, establish and operate industry, trade and business in any part of Nepal. Going against the right to freedom, the Cabinet on November 13 banned TikTok, a popular short video sharing mobile app. The ban was imposed arguing that the social media app affected social harmony. In response to a writ petition filed at the Supreme Court a single bench of Justice Binod Sharma on November 21 2023 issued a show cause notice. Although the case is still pending at the court it has alerted the government to consult with the stakeholders before imposing a ban on popular media without valid reason in the days to come.

2.3 Right to Equality

Article 18 (1) of the Constitution states, "All citizens shall be equal before law. No person shall be denied the equal protection of law." Likewise, Article 18 (2) states, "There shall be no discrimination in the application of general laws on the ground of origin, religion, race, caste, tribe, sex, physical condition, disability, health condition, matrimonial status, pregnancy, economic condition, language or geographical region, or ideology or any

other such grounds.” While issue of marriage equality was raised, Nepal’s Supreme Court on June 28 issued an interim order to register temporary marriage of same-sex couple.

Nepal’s civil code only recognizes marriage between Cis female and male. The Court’s order to establish a separate register for sexual minorities and non-binary couples and to register them temporarily is progressive. For a permanent solution the parliament should revise the law. After the court order Prakash Chaudhary of Kailari Rural Municipality-8, and Malina Neupane from Tulsiipur Sub-metropolitan City, same sex couple, registered their marriage. The couple registered their marriage four years later of their traditional marriage. Similarly, on November 29, the same-sex marriage between Ram Bahadur Gurung, a local from Dordi Rural Municipality-2, Lamjung and Surendra Pandey of Kawasoti Rural Municipality-8, was registered. Gurung, a transgender woman, and Pandey, a cis male, got married in 2017 and attempted to register their relationship at the Kathmandu District Court. But the court had denied the registration arguing it didn’t recognize a couple that did not have a legal male and a legal female identity. Later, they appealed to the Patan High Court in September. In Nepal, same-sex couples have been denied the right to acquire property and establish a family life due to the lack of registration for such marriages. INSEC had published an article on sexual minorities after a comprehensive research in the Human Rights Yearbook 2023. (see Nepal Human Rights Yearbook 2023, Page 67)

2.4 Right of Crime Victim

Article 21 of the Constitution has ensured the victim’s right. Article 21(1) of the Constitution states, “The victim of crime shall have the right to be informed about the investigation and proceeding of

the case regarding his/her victimization.” Likewise, article 21(2) has mentioned that “the victim of crime shall have the right to social rehabilitation and justice with the compensation as provided for by law.” Given this context, the verdict by Rukum (West) District Court was a milestone. On May 27 2020, 18 youths including Nabaraj BK from Bheri Municipality-4, Jajarkot had gone to Chaurjahari Municipality of Rukum (West) to marry a girl from so-called upper caste. As many as 60 locals from Soti village of Chaurjahari chased down victims, beat them and killed six youths including Nabaraj. A field report published by INSEC had mentioned, “Mass murder of youth in Rukum (West) is a heinous crime. The way the relationship of intercaste couple ended into a mass murder—is a serious crime. This incident has exposed caste-based discrimination and the worst form of racial discrimination existing in our society (INSEC 2020).

On 5 December, the District Court of Rukum (West) sentenced 24 individuals to life imprisonment on murder charges, and two others to two years in prison. The court imposed a fine of Rs 50,000 and sentenced a girl and her mother, who had been granted bail, to 2 years imprisonment. This decision will have a far reaching impact on the mindsets of people because, in the past, such cases were usually “reconciled”.

This year, the Supreme Court issued a landmark ruling stating that cases involving serious human rights violations during the armed conflict should not remain unresolved indefinitely. Citing various reasons and aligning with international law and principles, the court emphasized that victims have the right to information, justice, and compensation. The court stated that the inefficacy of transitional justice mechanisms cannot render the country’s criminal justice process ineffective. Furthermore, the Supreme Court

highlighted that individuals seeking justice under normal circumstances should not be denied access to the courts. On 15 January 2020, Pushpa Kamal Dahal (now Prime Minister) had publicly said he was ready to take the responsibility of killing 5000 people and the State should take the responsibility of the rest. Following his statement advocates, Gyanendra Aran and Kalyan Budhathoki, among others, filed a case demanding action against Dahal. Earlier, the Supreme Court administration had quashed the writ petition in October 2022 and did not register two writ petitions seeking transitional justice and freedom of expression. The Court revoked its administration's decision on not allowing victims from seeking justice at the courts (*Gorkhapatra*, 2023). The Court said conflict victims were seeking the right to justice and reparation, which could not be denied based on previous court precedents, international law, and principles of justice. The victims had been waiting for justice for 16 years after the signing of the Comprehensive Peace Accord. The Court said the state needed to manage the consequences of conflict in a judicial manner on time, instead of promoting impunity (Rajdhani, 2022)

The decision has created pressure on Truth and Reconciliation Commission (TRC) to expedite cases of human rights violation, as it said that TRC was the only authority to deal with the conflict-era cases, had to be sensitive towards their timely settlement.

On 21 May 2023, police arrested Motibabu, the husband of Arati Shah and her father-in-law, Madanmohan Byahut Sudi, on charge of beating her to death on the pretext of dowry. The victim's family had filed a case at the police after Arati was allegedly killed in her house located in Janakpur-9 Thapachwok. Dhanusha District Court sent both the accused to the custody. However, they were released

on bail following Janakpur High Court order.

The victim's family has accused the court of releasing the accused as police weakened the investigation. Dismayed by the high court order, the victims approached the Supreme Court, which later ordered to re-arrest those accused and sent him to jail until the case is settled.

2.5 Fair and Speedy Justice

Right against Preventive Detention is ensured in the Article 23 of the Constitution. Article 23(2) states family members or close relatives of the person in preventive detention pursuant should be informed immediately about his or her condition. The Supreme Court on September 15 issued a mandamus order to ensure the prompt resolution cases related to juvenile justices within 120 days. Given the context of case not settled even after the expiry of stipulated time frame the Supreme Court had ordered to continue the hearing for timely settlement of case. Due to delay in settling juvenile cases, children have become adult and juvenile centers are overcrowded. Consequently, juvenile centers are running out of capacity. Incidents of clash within the centers show juvenile centers have turned into torture centers. The Supreme Court order has drawn the attention of stakeholders concerned to get serious toward juvenile justice system.

Abodh Lal Sah and his son Akash Lal were arrested from Kathmandu on December 31 2019 on charge of obtaining dual citizenship and passports. Responding to a writ petition filed at the Supreme Court demanding early settlement of case, the Supreme Court interpreted that 'early hearing as right of arrestees in the context were both the accused were in custody since they were arrested.' The Supreme Court ordered the Kathmandu District Court that hearing over writ pe-

tioners' case should not be prolonged for an indefinite period of time. Justice delayed is justice denied and it is against principles of fair justice. So, a decision should be taken within three months.”

2.6 Right to Health

Article 35 (2) of the Constitution has ensured citizen's the right to health. In response to a writ petition registered by Dhruva Kumar Bishwokarma who had accused Kanti Children's Hospital of negligence because its medication had resulted in complications in his eight-month-old, the Supreme Court ordered the hospital to pay the petitioner NPR 3 million on 8 February as it had administered the wrong injection. Earlier, the Patan High Court had ordered the hospital to pay NPR 1.5 million. This establishes the responsibility to uphold the rights granted by the Constitution of Nepal and holds them accountable in case of any violation of these rights.

In response another a writ petition, demanding safe drinking water, the Surkhet High Court on 16 August 2023, ordered the Office of Chaukune Rural Municipality and other offices concerned to make arrangements of drinking water in a sustainable manner.

2.7 Right to Food

Article 36 of the Constitution has ensured rights related to food whereas the right to obtain quality goods and services is ensured in Article 44. In response to a writ petition filed regarding the implementation of decision made by the Cabinet on 18 June 2019, the Supreme Court, on 16 April, asked the government about time-bound action for full implementation and inquired about the implementation plan within two months and receive report from secretary of Office of the Prime Minister and Council of Ministers. Health professionals and consumer rights activists have been stating that vegetables and

fruits imported from India without pesticide tests have caused adverse impacts in the public health sector. With this order from the supreme court, the government had decided to arrange pesticide testing at border points.

2.8 Rights of Women

Article 38 (2) has ensured non-discrimination of women on the grounds of gender, physical disability, health condition, marital status and pregnancy, among others and guarantees women equal rights as men. In response to a writ petition filed by a single woman from Lalitpur demanding citizenship be given in the name of the mother, on 8 September, the Supreme Court ordered the Government to issue citizenships to citizens in the name of their mothers for those who did not want to acquire from the name of their father. This order has cleared the way for the Government agencies to address this inequality in gender relations.

The Supreme Court, on 22 December, issued an interim order to the Office of the Vital Registration, in Dhunibesi, Dhading to register births. It said that the office could not register birth in the name of mother as per law, if the mother sought the registration. This order allows mothers to register the birth of children in the absence of the father and in cases where the father has not been identified.

Table 3.1.1:
Status of writs on habeas corpus

Court	Cases/ writ petitions	Settled	Cases settled in %
Supreme Court	325	286	88
High Court	192	182	94.79
District Court	40	35	87.50

(Source: Suprem Court, 2079)

In another case, on 29 December, the Kathmandu District Court found Nepali national cricket team member, Sandip Lamichane, guilty of rape and sentenced him to eight years in prison on 10 January.

On 4 November 2023, the Kathmandu District Court had ordered the submission of the case records of the High Court, which had ordered to release Sandip after he had appealed for bail. The victim had filed charges against Lamichane on 6 September, two weeks after the alleged rape. The Kathmandu District Court had, on 4 November, sent accused to jail after preliminary hearing. But Patan High Court had ordered his release after payment of NPR two million.

In response to a writ petition filed against second marriage right after divorcing the wife, declaring *Triple Talaq*, a practice in Muslim community, the Supreme Court ordered the practice is invalid. “Since *Triple Talaq* practiced in Muslim community is now invalidated by Nepali law, an integrated law is prevailing for all communities and ethnicities without any discrimination. Therefore, arbitrariness in divorce cannot be considered valid,” states the court order. This order has established that some bad practices existing among some religious communities are against law.

2.9 Rights of Child

Article 39 of the Constitution has incorporated Rights of Child. Article 39 (5) states ‘no child shall be subjected to child marriage, illegal transportation, abduction or taken in hostage’. The Supreme Court on 8 December 2023 issued an order to review the order of the High Court to free Paul Shah (Purna Bikram Shah) it issued earlier. In response to the petition filed by government lawyer the Supreme Court said the High Court didn’t judge the evidences property, wrongfully interpreted the law and the order was against

precedents established in previous statutory rape cases. The High Court’s judgment is under question as the victim was proved minor and the order was against the precedents of the Supreme Court—final interpreter of the Constitution.

2.10 Right against Preventive

Detention

Right against Preventive Detention is ensured in Article 23 of the Constitution. Similarly, Article 23 (2) has a provision that the information about the situation of a person who is held under preventive detention should be given immediately to his or her family members or relatives. Hearing on all sensitive cases of habeas corpus could not be conducted. Out of 557 writ petitions filed in all three-tier courts, only 485 petitions were conducted.

3. Incompatibility between Judiciary and Executive

Nepal’s constitution has envisioned an independent judiciary as per principle of power balance and separation of power. Some differences were between judiciary and executive this year as well. Consequently, this obstructed implementing principles of rule of law and equality. The Supreme Court on 5 June 2023 issued a show cause notice in the name of government for granting amnesty to convict of Tikapur incident Resham Chaudhary to release him from jail. The Supreme Court, High Court and District Court convicted him in Tikapur killings. Upon recommendation of the government, the President pardoned him on the occasion of Republic Day.

The Supreme Court on 30 May 2023 issued a mandamus order annulling the decision to grant a presidential pardon to Yog Raj Dhakal (Regal), a killing convict. President Ram Chandra Poudel had pardoned the convict on the occasion of Constitution Day. Releasing the convict of killing was against the law. The Supreme

Court had ordered to seek consent of the victim even if someone is to be released from the prison. This order has raised questions about the government's decision to release people convicted in crimes and the Court warned not to make such decisions in future for their political interests. The court has drawn the attention of government and leaders of political parties towards not granting amnesty to those involved in serious human rights violations. The Supreme Court on 22 June 2023 withheld the government decision to withdraw a case pending at the Kathmandu District Court. A Cabinet meeting had decided to withdraw the case on 13 June 2023. But the Supreme Court stayed the move saying the decision was against the Supreme Court precedents, established judicial norms and not presenting appropriate and convincing reasons before withdrawing the case.

The Supreme Court on 29 December 2023 annulled the government's decision to give a public holiday on the People's War Day (Jana Yuddha Diwas). The government of Nepal on 12 February 2023 had decided to mark February 13 as People's Way Day, the day when the Maoists began armed struggle against the state, and published the notice in the Nepal gazette dated 16 March 2023. The court annulled the decisions made by the provinces to stop arbitrariness and prejudice of the government. In its order the Supreme Court mentioned that the government decision taken without consulting elected people's parliament and organization working in the field of transitional justice was against the preamble, intent and spirit of Constitution and can not be considered as an appropriate task.

Rabi Lamichhane was appointed as a Deputy Prime Minister and Home Minister before citizenship card related case was under consideration at the court.

Conducting a hearing over writ petition filed against Lamichhane, a member of parliament elected from Chitwan constituency no. 2, the Apex Court on 27 January 2023, scrapped Lamichhane's status as member of House of Representatives saying that he didn't have a valid citizenship after he relinquished the US citizenship. The order has once again justified that the ignorance of law is no excuse. If Lamichhane's citizenship case was settled before, the parliamentary by-election in Chitwan election constituency no. 2 wouldn't have to be conducted.

4. Judiciary-Legislature Tension

Tension between Judiciary and legislature was visible this year. The Supreme Court blocked the Constituency Infrastructure Development Program popularly known as parliamentary development fund. Responding to a writ petition a constitutional bench led of Chief Justice Bishowambher Prasad Shrestha, Ishwar Prasad Khatiwada, Ananda Mohan Bhattacharai, Anil Kumar Sinha and Prakash Man Singh issued an interim order in the name of both federal and provincial government to not implement the program

The annual budget in the fiscal year 2023/24 has allocated NPR 50 Millions to a member of parliament. Similarly, provincial governments have allocated NPR thirty millions to NPR fifty millions for each member of parliament for his/her constituencies.

The supreme court removed ordered the selection of a new Chief Minister within seven days. The order was issued after Koshi province Speaker Baburam Gautam signed to elect Chief Minister and Provincial Government. The Supreme Court controlled Speaker from overstepping the jurisdiction. This order will impact in implementing the Constitution in the future.

5. Chief Justice, Appointment Process and People’s Believe towards Judiciary

This year, two Chief Justice led the Supreme Court, from its state being run by an acting Chief Justice. The Constitutional Council on 16 June 2023 appointed Hari Krishna Karki as 30th chief justice following his stint as acting chief justice. Karki served for about two months. Following Karki’s retirement, senior most Supreme Court Judge Bishwambhar Prasad Shrestha was appointed as Chief Justice on 22 August 2023 as 31st Chief Justice. Parliamentary hearing is a democratic process of making the executive accountable and responsible by examining through legislature efficiency, capability and honesty of the persons and the officials proposed by the executive for appointment to the office of public importance.

Article 292 (1) of the Constitution of Nepal has a provision that parliamentary hearings shall be conducted before

the appointments to the offices of the Chief Justice and Judges of the Supreme Court, members of the Judicial Council, chiefs and members of Constitutional Bodies, and to the Offices of Ambassadors who are appointed on the recommendation of the Constitutional Council, as provisioned in the federal law. As per the same constitutional provision chief justice designated Bishwambhar Prasad Shrestha on 21 August presented an action plan in writing at parliamentary special hearing committee. The action plan states, “I believe that my future course of action and action plan regarding the reform of the judiciary should be determined in the light of the provisions made by the Constitution of Nepal regarding the judiciary, the responsibilities and expected roles assigned to it.” (Nepal Press 2024)

To support those unable to afford legal expenses or the bench considers so there’s a provision of appointing two Court remunerated lawyers at the Supreme Court and one in each Appel-

Table 3.1.2: Cases settled by the Supreme Court

Cases	Settled Cases	Settled percentage	Cases to be settled		
			Up to 2-years	2 to 5	Above five years
38,730	8,096	20.90	4,897	12,569	4858

Source: Supreme Court 2022/23

Table 3.1.3: Cases settled by the high courts

Cases	Settled Cases	Settled cases in percent	Cases to be settled	
			Up to 2-years	More than two years
68,449	41,451	60.56	4,292	1,809

Source: Supreme Court

Table 3.1.4: Cases settled by the district courts

Cases	Settled cases	Settled cases in percent	Cases to settled	
			Cases pending for two years	Cases pending for more than two years
2,93,107	1,85,977	63.45	20,597	11,742

Source: Supreme Court

Table 3.1.5: Total case settlement at the courts

Cases	Settled Cases	Settled percentage	Cases to be settled	
			Up to 2-years	Above two years
4,00,283	2,35,525	58.84	29,768	30,978

Source: Supreme Court

Court	Total Verdicts	Written	Written Percent	Remaining
Supreme	4,291	2,795	65	1,493
High	41702	38,593	92.54	3,109
District	1,04,472	1,00,735	96.42	3,737
Source: Supreme Court				

late Court and one in each District Court (Supreme Court 2023). As per Supreme Court annual report a total of 40,055-858 individuals from supreme court, 6278 from high courts and 23,919 from districts—have received the legal aid in the fiscal year 2022/23.

Based on recommendation by high-level study report, the supreme court on 28 August 2023 implemented the automated system to assign cases to justices to stop irregularities in judiciary and prevent the middlepersons from influencing the hearing. The automated case assignment to justices has ended the tradition of assigning justices based on interests of middlepersons.

6. Juvenile Justice System

In view of ensuring juvenile justice and broader welfare of children the Supreme Court is implementing the Juvenile Justice System and a juvenile bench exists in all 77 districts as per provision of having such a bench involving social worker, child psychologists and district court judge. However, no such juvenile benches are established to conduct hearing over offenses committed by children. The number of juvenile cases has increased in the context of the government

determining 18 years as child age. Eight Child Reform Centers are in operation across the country. Based on their geographical location and access to justice they are not accessible. Child Reform Centers are overcrowded. The Supreme Court's acceptance that Child Reform Centers are overcrowded shows the juvenile justice system is not effective. (Read an article published in Human Rights Yearbook 2024).

7. Establishment of Family Court

Kathmandu District Court on 9 October 2023 began a family bench. The bench was established to deal with the women related cases to deliver timely justice (Shilpa, 2023). It aims to deal with cases related to females and ensure justice in time. This provision has ended the tradition of women waiting for years to get justice.

8. Performance of Judiciary

The number of settled cases determines the performance of judiciary. As per annual report of last year (fiscal year 2021/22) the number of cases settled is seen as follows (Supreme Court, 2023).

The Supreme Court settled less cases. As per the report, out of total 38,730

Fine and Compensation	Fiscal Year 021/22	Recovered	Remaining
Determined fine and compensation	Rs 2,031,873,523	Rs 2,283,743,988	Rs17,74,81,29535
Fine to be recovered by court	Rs 564,559, 584	Rs 50, 359, 226	Rs 511,050,358
Interim compensation determined for victims	Rs 11,476,934	Rs 604,580	Rs 10, 872,354
Source: Supreme Court Annual Report 2022-023			

cases, a total of 8,097 (20.90 percent) were settled. It shows 12,569 cases pending at the Supreme Court for two to five years whereas the number of cases older than five years stands at 4,858.

Out of 68,449 cases registered at the seven High Courts, 41,451 cases or 60.56 % were settled. (Supreme Court 2021). High Courts have settled more cases as compared to the Supreme Court and District Courts. According to the report, 292 cases are pending for two years whereas the number of cases pending more than two years is 1089 (Supreme Court, 2021).

Out of 293,107 cases filed at the District Courts, 185,977 cases were settled. That's 63.45% success of the total cases (Supreme Court 2021). Likewise, 20, 579 cases were pending for two years whereas the number of cases pending more than two years stands at 11,742. (Supreme Court, 2021).

Of the total 400,286 cases filed at the Supreme Court, High Courts and District Courts, 235,524 (58.84 percent) cases are settled. More than 29,768 cases are pending for two years and 30,978 cases remain unsettled for more than two years.

9. Constitutional cases and Writ Petition

The Constitution of Nepal has a provision to mandate the constitutional bench for conducting hearings over writ petitions related to the Constitution. Since cases and writ petitions related to the constitution are not given high priority, the hearing at the constitutional bench was not regular (Supreme Court Regulation, 2017). In the fiscal year 2021-22, 436 constitutional cases and writ petitions were filed at the supreme court. Of them, 121 cases or 27.75 % were addressed (Supreme Court 2022).

10. Full Text Writing, Verdict Writing and Preparation

As per rule 91 of the Supreme Court Regulation 2017, justices should

prepare the full text of their views within 21 days of passing the decision. Likewise, Article 198 of Civil Code Working Procedure and Article 131 (6) of Criminal Code ensure completion of full text within 21 days of publicizing the decision. Despite the provision of completing the full text writing process, full texts are not produced in time. So is the case with the publication of *Nepal Kanun Patrika* (Nepal Law Journal).

The Supreme Court had to prepare full texts of 4,291 cases in the fiscal year 021-22. Of them, only 1795 or 65% of the full text writing process was completed. Likewise, the High Courts have completed full text writing of 31,593 cases (92.54%) of the total 41,702 settled cases. Out of total of 104,472 settled cases, the verdict writing of 100,735 cases were prepared. The aforementioned record shows district courts are far ahead in terms of full text writing as compared to High Courts and Supreme Court.

Article 126 of the Constitution of Nepal has ensured the implementation of court order or verdict. Implementation of court order or verdict is the common understanding of rule of law. If court verdicts are not implemented, impunity thrives and people's respect for the judiciary fades away. But some orders and verdicts issued by the court are not executed for years (Supreme Court 2023).

11. Conclusion

This year, the courts drew serious attention from government and political parties towards waiving jail term and granting amnesty to those convicted of human rights violations to serve their political interests. Beginning of an automated case assigning system and some verdicts and orders such as order to grant citizenship in the name of mother, temporary marriage registration of same sex couples and annulment of parliamentary development fund somehow maintained to save the image of judiciary. Most of

the cases couldn't be settled this year as well. Of the total cases registered at the court, 33.55 percent of cases were unsettled. The state of execution of judgment was unsatisfactory. Demand of appointing justices based on caseloads of cases was not heard. Justices were appointed at the end of year. Issue of judgment execution was ignored this year as well.

Suggestion

- ▶ Judiciary must preserve its reputation as the last hope of protection of fundamental rights and human rights.
 - ▶ Judicial efficiency must be expanded and constitutional provisions must be followed properly.
- ▶ Prompt decisions on the cases of detainees who are forced to live in detention due to constriction of freedom must be made.
 - ▶ Regular discussions must be made with the government regarding the treatment of writs registered in the Courts.
 - ▶ Judges must be appointed based on the number of cases.
 - ▶ Judiciary needs to move ahead by formulating an action for reducing workload of pending cases across the country. It's already late to begin the work by appointing justices based on cases pending at the courts.

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