

Chapter

3

3.2 State and Human Rights

Executive

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The human rights scorecard of the Government of Nepal was unsatisfactory for various reasons. Most visible among them was curtailment of free expression by imposing a ban on the use of the social media platform TikTok, controlling the right to association and peaceful political protests by expanding areas where demonstrations, protests rallies can be organized; lingering and extending the uncertainties related to the transitional judicial process, inadequate efforts to rehabilitate victims of the earthquake in Far-western Nepal and other natural disasters, and the inability to demonstrate a strong commitment to prioritize the implementation of social justice and human rights. The executive appeared solely concentrated this year to hold onto power as its actions and initiatives have not aligned consistently with the human rights principles.

Some of the Executive's decisions were not in alignment with both national and international commitments, particularly the effort to restrict free expression and opinion, restraints on peaceful assembly, and initiatives taken to provide amnesty to individuals facing serious charges for political expediency. This section examines the performance of the Executive in terms of its responsibility to prevent, protect and promote human rights.

The coalition government led by Pushpa Kamal Dahal, Prachanda, was formed in November 2022. All parties in parliament, except the Nepal Majdur Kisan Party, have participated in different coalitions. The Council of Ministers has been shuffled 12 times in the last seven months. On 25 December 2022, President Bidya Devi Bhandari had appointed Pushpa Kamal Dahal as Prime Minister. He had secured the support of the Rashtriya Swatantra Party, Rastriya Prajatantra Party, Janamat Party, and Nagarik Unmukti Party, and won the

confidence of 268 of 270 members of the House of Representatives on 10 January 2023.

Nepali Congress Leader Ram Chandra Poudel was elected the President of Nepal in March 2023. Following differences in the presidential election, Unified Maoist Leninist (UML), Rastriya Prajatantra Party, Rastriya Swatantra Party, and Janamat Party announced their withdrawal from government. Consequently, the Nepali Congress and other coalition parties took up governing responsibilities.

Right to Life: State's Failure to Full its Obligation to Protect

It is the duty of the government to safeguard the constitutional right to life. Six people were killed by the state. This included the deaths of two inmates at the Sankhuwasabha Jail. They were killed as a result of assault and torture by both police officers and fellow inmates. In another instance, one person lost his life following a police shooting of protesters in Balkumari, Lalitpur. At another protest in Morang District, Lajehang Limbu succumbed to injuries resulting from police brutality while under treatment in Dharan. Yet another citizen, Laxmi Bin Mukhiya, was killed in a police shooting as they tried to disperse a demonstration.

Nepal's constitution clearly prohibits capital punishment. Article 6 of the 1966 International Treaty on Civil and Political Rights, to which Nepal is a party, explicitly forbids the death penalty as a means of punishment, and upholds the right to life. Overall, the government has failed to protect citizens: INSEC has documented five deaths by state party, and 327 by non state party in 2022. The figures for 2023 indicate an increase, with six deaths attributed to state actors and 317 to others (refer to Appendix 1).

Lalitpur and Kathmandu Districts have imposed restrictions on rallies, pro-

Box 3.2.1: Sankhuwasabha Jail: Security of the Inmates

Human Rights concern everyone and do not have any limitations or restrictions. The failure to protect and preserve a culture of human rights hinders the fulfillment of democratic ideals in a society. Institutions and individuals from all communities and cohorts need to contribute towards building a culture of human rights and a civilized society (NHRC, 2021).

The government's responsibility in human rights has been scrutinized under the lens of the arbitrary torture and killings of Binod Tolangi and Akash Balami on 9 August 2023, who were serving sentences in District Jail Khadbari. The government's constitutional and international commitment to human rights is meant to safeguard citizens. In this case, the government has violated the right to life of its citizens. Instead of fulfilling its constitutional obligation to safeguard its citizens, the state's torturing and killing of inmates showcases its nonchalance in the protection of its citizens. This 2023 case is deeply disturbing as it highlights the government's inability to protect public rights as a constitutional need.

tests, and gatherings of more than five people in certain areas, citing provisions of the Local Administration Act 1971, Article 6(3) administered through the District Administration Offices frequently. Although the law allows such bans for a two-month period at one time, Lalitpur extended the ban to six months. Such extensions constrict the right of people to assemble peacefully to press demands and articulate their concerns and is in violation of the right guaranteed under Article 17 of the Constitution of Nepal.

Nationality, Citizenship, and Identity

President Ram Chandra Poudel, authenticated the Citizenship Bill, recommended to the president by the Council of Ministers on 31 May 2023. One constitutional question that arose was the signature that was put in space that has the name of the former president, Bidya Devi Bhandari. The matter is now in Court. The bill had been returned to parliament by the former president and had been resent to Poudel by the Council of Ministers without further debate or changes.

The provision of granting citizenship on the basis of birth, had been constitutionally removed. However, the provision to allow citizenship by birth for offspring of individuals who acquired citi-

zenship prior to the enactment of the 2015 constitution has been retained. When the bill takes force, children of people who obtained citizenship by birth will be eligible for citizenship. Article 2 of the bill specifies that these children can acquire citizenship once they reach the age of 16.

Decisions of the Council of Ministers on 13 November 2023

The government took the decision to ban the use of TikTok, saying that it had undermined social cohesion, days before a demonstration planned by an activist, using platforms such as TikTok. The government did not present evidences to support the decision. The control on free expression – an anchor rights for all freedoms – is therefore unjustified by both national laws and international treaties to which Nepal is a party. What the government could have done is effective regulation of specific content, and what the ban underscores its lack of confidence and capacity to do the same.

The Prime Minister had stopped Foreign Minister Bimala Rai Paudyal and her delegation from traveling to Geneva for the 52nd session of the United Nations Human Rights Council, although the visit had already been approved by the Council of Ministers. The Prime Minister's inter-

Box 3.2.2: Restrictions to Free Expression and Peaceful Organization

The Constitution of Nepal, under Article 17(2), places a high priority on the right to freedom of expression. This protection is explicitly extended to digital media by Article 19(2). What this means is that expressions on platforms such as TikTok cannot be banned. The same is true under Article 19 of the Universal Declaration of Human Rights (1948), which emphasizes the right of everyone to express their thoughts through speech, writing, and publishing. Moreover, the International Treaty on Civil and Political Rights (1996) reinforces these principles in Article 19(1), ensuring the freedom of opinion and expression.

Decisions of the Council of Ministers on 13 November 2023

S.No	Ministry	Brief description of the decisions
1	Ministry of Communication and Information Technology	Immediate ban on TikTok for its negative impression on social cohesion and environment

vention was inappropriate as attendance was required, given Nepal's elected membership of the UNHRC. The government was unable to accept the Foreign Minister's attendance and possible commitments in terms of human rights.

Negligence on Prisons and Prisoners

It is the responsibility of the Prison Management Department to oversee prisons and detention centres. The government has continuously overlooked the human rights concerns at the jails and detention centres. This contradicts the Executive's expressed commitment to transform prisons into rehabilitation centers. The prison improvement concept document made public in 2022, emphasizes humane treatment and assurance of basic human rights but INSEC records show that implementation remains weak. The document also pledges to maintain prisoner numbers within capacity, but that has not been the case. Overcrowding has been reported as a major problem in most prisons nationwide, which has been the reason for human rights violation of inmates.

The Prison Act of 2019 provides the authority to delegate administrative responsibilities among inmates, with

the selection of guards, *naike* (leaders), and *bhai naike* (junior leader). However, there is a growing realization that this practice needs a re-evaluation. The existing system has contributed to the institutionalization of criminal activities within prisons, often obscured from the public scrutiny. Acknowledging this need, a reform committee led by Home Minister Narayan Kaji Shrestha has proposed a shift in the appointment process. Going forward, the appointments are to be based on a comprehensive assessment involving 12-13 indicators, ensuring a more robust selection process. It is worth noting that many prisons face issues of overcrowding, which has resulted from lack of adequate infrastructure that the government needs to address.

Table 3.2.1: Prisoner Data (2018-2022)

Year	Total capacity	Total inmates	Male	Female
2022	13568	27475	25941	1558
2021	13688	26279	24865	1412
2020	12437	25120	23578	1440
2019	11829	23618	22201	1417
2018	13475	21557	20151	1406

Source: Nepal Human Rights Year Books

Child Reform Home: Challenges in Child Protection

This year, there were outbreaks of violence at Child Reform Home in Bhaktapur, Banke, Rupandehi, and Parsa districts where there were deaths. These clashes were related to negligence in the operation, management, and daily administrative activities at the centers. Children at the centres had brought issues to the attention of the administrators but had been ignored as revealed by field investigation report by INSEC in Bhaktapur, Rupandehi, and Banke. INSEC has recommended the need to enhance the conditions of reform home, improve management, investigate to identify those those responsible for management lapses, and put an end to holding individuals above age 18 at the centers with minors. The government has yet to formulate effective laws to address juvenile justice and the decision-making, including the process of sending children to judicial custody, mirror the practice for adults. This has resulted in delayed verdicts that force the minors to remain in detention of long periods of time.

Ad-hoc Declaration of Martyrs: Neglecting Due Process

Although the government had

been apathetic to delivering transitional justice for victims, on 27 February the government declared individuals who had “made sacrifices in the name of national interest, the restoration of democracy, and significant changes during the armed conflict” as martyrs. However, On 13 March 2023 while cross-referencing with INSEC’s data it was seen that the government list has discrepancies and missing information. INSEC has compiled and published a document containing details of those who lost their lives, disappeared, and were injured during the armed conflict. The government published 8,470 martyrs in the national gazette. There has recently been a growing tendency after the armed conflict to recognize individuals killed by state agencies, clashes, and even accidents as martyrs and public pressure for compensation of NPR one million.

In light of recent scrutiny of ad-hoc martyrdoms, the government had formed two commissions led by Modnath Prasrit and Nawaraj Subedi, in 2006/7 to recommend a pathway on this matter. Both commissions have said that individuals who lost their lives in political party conflicts, were killed by unidentified assailants, or in accidents should not be designated as martyrs. The reports by

Table3.2.2: Number of Incident with Status of Legal Proceeding in 2023

Province/District	Published in Gazette	Documented in INSEC	Documented by INSEC			Not Documented by INSEC
			From State	From Others	Total	
Koshi	1167	1853	703	140	843	324
Madhesh	709	1063	352	138	490	219
Bagmati	1113	2132	706	259	965	148
Gandaki	686	1170	458	119	577	109
Lumbini	1567	2562	475	133	608	959
Karnali	1581	2140	1110	152	1262	319
Sudurpaschim	1005	1553	736	53	789	316
Nawalparasi	58	214	38	12	50	8
Rukum	584	561	372	58	430	154
Total	8470	13248	4950	1064	6014	2456

(Source: INSEC, 2023)



Table 3.2.3: Amnesty and Reduction of Time in Prison (2023)

S.No	Date of recommendation by Ccabinet of Ministers	Legal Provision	Occasion of waiver	Numbers
1	16 February 2023	The Criminal Offences (Sentencing and Execution) Act, 2017, sec 37 Senior Citizen Act, 2006, Sec 12	Democracy Day	381
2	17 February 2023	The National Criminal Procedure (Code) Act, 2017, Sec 159	Democracy Day	84
3	26 May 2023	The Criminal Offences (Sentencing and Execution) Act, 2017, sec 37 Senior Citizen Act, 2006, Sec 12	Republic Day	482
4	26 and 28 May 2023	The National Criminal Procedure (Code) Act, 2017, Sec 159	Republic Day	19
5	15 September 2023	The Criminal Offences Sentencing and Execution) Act, 2017, sec 37 Prison regulation, 1963 Rule 1 and 2 Supreme Court writ no. 076-DH-0939 and writ no. 079-DH-0147 Senior Citizen Act, 2006, Sec 12	Democracy Day	670
6	Total			1566

Source: Press release, Office of the President of Nepal

both commissions designated three different groups of martyrdoms with “sacrificing one’s life in certain death, committed without certainty of death, and focused on financial benefit”. Reports by both commissions criticized ad-hoc martyrdoms in political protests, unsolved attacks and murders, and transportation accidents.

Presidential Pardon and Human Rights

The government demonstrated its total disregard for due process, respect of the judicial system, and fundamental human rights in its decisions regarding amnesty to prisoners and the withdrawal of charges. On 29 May, the Council of Ministers proposed amnesty for Resham Chaudhary during Republic Day, who had been found guilty as the primary suspect for murders during the Tikapur clashes.

Although the Supreme Court had upheld the guilty judgment of the District Court in Kailali and the High Court in Dipayal, Chaudhary was released from prison following presidential amnesty. (See: Judiciary)

In another instance, the government decided to drop charges against a group of students led by Hari Acharya, the Chairperson of the Nepali Student Union, youth wing of the Nepali Congress, who had assaulted Prem Chalaune, Assistant Professor at Tribhuvan University, on 6 October 2020. The Supreme Court intervened, and the bench of Judge Manoj Kumar Sharma barred the withdrawal of charges. (See: Judiciary)

In yet another case, the Supreme Court had to intervene to reverse the government decision waive the prison term of Yog Prasad Dhakal (Regal). Dhakal had

been convicted by all three tiers of the judiciary and was serving time for the murder of Chetan Manandhar in Nepgunj, since 13 July 2015. The amnesty was granted by the President on Constitution Day, following a recommendation of the Council of Ministers. Chetan Manandhar's wife filed a writ against the decision at the Supreme Court, arguing that waiving imprisonment for crimes such as killing was against the law. The bench of judges Ishwar Prasad Khatiwada, Sapana Malla Pradhan, and Kumar Chudal, upheld the writ, emphasizing Article 116 of the National Penal Code that cases involving the barbaric or custodial killings cannot be pardoned and that the sentence cannot be commuted.

Dissatisfaction with Constitutional Schedule and Government Position

The government presented a bill in parliament, intending to bring teachers under the jurisdiction of local governments. This measure was opposed by teachers nationwide, releasing an 18 point demand, arguing that the changes would restrict their rights, especially in terms of grades and promotions and potential suspension from their profession even when they had federal government appointments.

In September/October 2023, the government reached an agreement with the protesting teachers who had stopped all teaching-learning activities, agreeing

to uphold the hierarchy among teachers at public schools, making amendments in laws related to school education, respecting the freedom of the education system, among others. However, the implementation of this agreement remains difficult as the as Schedule 8 of the Constitution states that basic and secondary education are exclusive jurisdiction of local governments. There needs to be parliamentary deliberation and intervention to chart a recourse in the matter

Although there is a provision for ensuring free education up to the secondary level, it is not implemented. Public schools collect fees and other charges, under various pretexts. This has remained a glaring example of ineffective implementation of the provision by the government, which continues to affect the ability of poor students to receive education.

Unresolved Transitional Justice

The Comprehensive Peace Accord (CPA) 2006 laid the groundwork for transitional justice but the commissions formed for the purpose have not been able to function effectively to deliver as envisaged by the CPA. Two commissions were created to address truth and reconciliation, as provided by point 5.2.5 of the CPA.

In a public statement, the Prime Minister declared his willingness to take responsibility for the deaths of 5,000 individuals out of the 17,000 conflict on 5

Box 3.2.3: The Enforced Disappearance Enquiry, Truth and Reconciliation Commission Act 2014

- ▶ Truth and Reconciliation Commission and the Commission Investigation on Enforced Disappeared Persons Act 2014
- ▶ Truth and Reconciliation Commission and the Commission Investigation on Enforced Disappeared Persons Act 2019
- ▶ The first amendment of the Commission of Enforced Disappeared Persons Act 2018
- ▶ Second amendment of the Commission of Enforced Disappeared Persons Act 2019

January 2020. Advocates Gyanendra Aaran and Kalyan Budhathoki have filed a writ petition against this statement on 3 March 2023, urging the Supreme Court to order the arrest of the Prime Minister. Judges Ishwar Khatiwada and Hari Prasad Phuyal dismissed the writ on the same day.

The Supreme Court's decision expressed discontent with the prolonged transitional justice process. Immediately after the court's verdict, the government registered an amendment bill of the Commission of Enforced Disappeared Persons and Truth and Reconciliation Act at Parliament. However, on 15 March, conflict victims expressed deep dissatisfaction with the bill. In the government's plans and policies outlining on 15 May, the government had committed to resolving the peace process and issues of transitional justice. Although there were plans to build on previous agreements into this year's bill, nothing substantial could be accomplished.

Weak Disaster Management

The Disaster Risk Reduction and Management Act 2017 has provisions for trainings on disaster management, adhering to building construction codes, and conducting disaster risk analysis. There are action plans and guidelines that set specific criteria for construction at the local level. However, there are notable weaknesses in implementation, and the government has lagged behind in fulfilling its responsibilities, which became apparent during the relief and rehabilitation measures for people affected by the 6.4 Richter earthquake with epicentre at

Barekot Rural Municipality-1 in Jajarkot District on November 3, 2023. The quake caused 101 deaths and 158 injuries in Jajarkot, and 53 deaths and 407 injuries in Rukum West. The quake also caused significant damage to 35,140 houses in Jajarkot. Another, 30 lives were lost due to the harsh cold conditions, which mainly affected vulnerable groups such as pregnant women, senior citizens, and children. Among the earthquake casualties were 50 children, 28 boys and 22 girls. (See: Chapters on Rukum West and Jajarkot)

The government's preparation for disaster management remains weak, especially in terms of readiness. During the rescue, relief, and rehabilitation there was noticeable lack of prioritization for women, children, senior citizens, and individuals with disabilities. The overall effort was weak, underscored by the loss of 38 lives after the quake.

Nepal encounters natural disasters annually, and therefore the need for readiness and measures to reduce harm. This was also not demonstrated on 17 June, when floods and landslides led to the one death and left 20 missing in Sankhuwasabha District. (See: Chapter, Sankhuwasabha) The same day, there were three deaths and displacement of 447 people in Panchthar District due to heavy rains and floods. Three individuals who had gone missing during the flood remained unaccounted for at the end of the year. The provincial government allotted hundred thousand rupees each for families of those who lost their lives, and fifty thousand for those injured. (See: Chapter on Panchthar)

Table 3.2.4: Statistics on Cases of Disasters in Four Months of Last Year

S. No.	Disaster Event	Death	Disappearance	Affected Families
1	Landslide	92	17	1968
2	Flood	19	15	136
3	Heavy rainfall	8	0	201
4	Others	114	32	1229

Source: Home Ministry, Report on monsoon related disasters

Intimidation by Human Trafficking

The government arrested a group of people including senior public officials, including who held ministry portfolios in the past, for involvement in a scheme to send individuals to the the United States of America by falsely representing them as Bhutanese refugees in return for cash. On 24 May 2023, the police filed charges against former Deputy Prime Minister Top Bahadur Rayamajhi, and Home Minister Bal Krishna Khand and 30 others for alleged involvement in an organized crime.

The involvement of high-level political actors in concocting fake Bhutanese refugees meant that a comprehensive investigation could not be done. The involvement of high political authority in human trafficking is very unfortunate.

Nepal's International Human Rights Commitments

The Universal Periodic Review (UPR) is a United Nations mechanism for reviewing human rights in member states, once every four years at the Human Rights Council. It is the responsibility of the state, human rights organizations, and other NGOs to submit reports to the UPR, and the government's responsibility to implement UPR recommendations.

On 31 July, INSEC submitted a mid-term review report on UPR recommendations on behalf of a coalition of non-governmental organizations. The report covers various topics, including the roles of national human rights organizations, discriminatory laws, incidents of violence against women, the status of rights for women with disabilities, child rights, the rights of gender minorities, and the rights of Dalits. The report has reported a notable gap in the implementation of existing legal provisions and the UPR recommendations.

Nepal had accepted 196 out of the 233 recommendations of the UPR third

cycle. Another 37 recommendations were acknowledged. Nepal's human rights situation was deliberated in August 2021.

The government has prepared a five-year work plan (2020/21 to 2024/25) to fulfill Nepal's international commitments on human rights. This plan aims to cultivate an inclusive, responsible, and non-discriminatory society by upholding, conserving, and safeguarding human rights. The government needs to draft its work plan for next year.

Despite the provision for implementing plans at the local level and forming mechanisms, all three tiers of government have not taken this responsibility seriously. The work plan encompasses 17 essential topics, including education, health, food rights, labor, employment, and social security, child rights and child justice, social justice, drinking water and sanitation, protection of targeted groups, empowerment and development, environment and sustainable development, cultural rights, legal improvement and legal administration, custody and prison improvement, transitional justice, implementation of national and international recommendations, human rights education, and institutional enhancement. However, the government has fallen short in disseminating the work plan effectively across all levels of governance, which raises the concern about effectiveness and meaningful implementation.

Implementation of Recommendations of the National Human Rights Commission

According to Article 249(1) of the constitution, the National Human Rights Commission (NHRC) is the state agency mandated to make recommendations to the government for protection, prevention and promotion of human rights. In 2023, out of NPR 281.3 million recommended by NHRC as compensating, only NPR 70 million had been paid. The NHRC's an-

nual report to the President said among the 1407 recommendations, only 13.5% had been fully implemented, 39.2% partially implemented, and 45.5% were not implemented. In 2023/24, the Commission identified 66 individuals as perpetrators of human rights violations. The NHRC had made 358 recommendations for punishment of which legal action was initiated against only 37. (National Human Rights Commission, 2023/24). This data shows the weakness of the NHRC in implementing its recommendations as the government seems nonchalant or non-cooperative. The NHRC rise up to its “A” grade National Human Rights Institution (NHRI) status, protected by Nepal’s activists and civil society, and effectively preserve human rights.

The NHRC is a A-grade NHRI but remains constrained by inadequate human and financial resources, which is the government’s responsibility to assure. Instead, the NHRC budget has decreased as shown below. There are also issues of the NHRC to spend the allocation.

Provincial Governments and Human Rights Obligations

The provincial governments did not demonstrate notable efforts to ensure human rights in their jurisdictions. Apart from routine administrative tasks, these governments did not take any specific measures or decisions aimed at addressing human rights concerns. While the annual policies and programs did mention

human rights concerns, the commitments were not effectively implemented.

Political Instability in Koshi Province

On 1 March 2023, the 62nd day of the second assembly term, the Provincial Assembly officially named the province as Koshi, which had remained a contested issue in the first tenure of the government in Province-1, as it was known. Sixty-days after the new government was formed, 82 members of the 87 present had voted for the name Koshi. However, one person was killed by police brutality in the protests, following clashes between the police and groups wanting the province to be named after the identity of the residents of the hill districts. The government declared Lajehang Limbu who had lost his life during a protest a martyr on 7 April. Protests over the naming continued throughout the year.

Koshi province took the longest time compared to other provinces to agree on a government, owing to the election returns, which had left no party with a sizeable majority. The first nine months after the election had different governments come and go, as result.

Hikmat Kumar Karki, Unified Marxist-Leninist, became Chief Minister of Koshi Province on 9 January 2023, but was unable to win a vote of confidence on 30 June. Following his departure, Udhav Thapa of Nepali Congress became Chief Minister twice, only to be removed by the

Table 3.2.5: Budget for NHRC Annual Programs

Fiscal Year	Allocation	Expenditure	Unused	Expenditure (%)
2019/20	28900000	18308619.04	10591380.96	36.64 %
2021/22	32200000	13393869.87	18806130.13	58.40
2022/23	29400000	23483652.64	5916347.36	20.12
2023/24	17803000	13146101.29	4656898.71	26.15
Total	108303000	68332242.84	39970757.16	36.90

Source: Annual Report of National Human Rights Commission

Supreme Court that found the provincial assembly in violation of constitution provisions. Subsequently, Hikmat Kumar Karki was reinstated as Chief Minister. However, foreseeing inability to win the confidence of the assembly, he resigned on 5 July. He was replaced by Kedar Karki of the Nepali Congress on 14 October.

Karnali Province, in its policy and program for 2023/24, expressed a commitment to generate 10,000 jobs through its “Prosperous Karnali” campaign. However, the campaign had not begun by the middle of the fiscal year and remains unimplemented.

Other provinces have integrated human rights in their policy and programs, but there was no information on progress in implementation at the end of the year. (See: Chapter 6)

Implementation of Federalism

Although it has been eight years since Nepal adopted federalism, implementation had lagged owing to lack of laws related to the management of public employees, education, health, and the police. The bill related to civil servants was unexpectedly withdrawn from parliament in 2023, and the law on provincial policing

Table 3.2.4

Kedar Karki assumed the role of Chief Minister in Koshi Province, after securing support of 47 members of the Provincial Assembly. The Chairperson of the Province, Parshuram Khapung, appointed him under Article 168(5) of the Constitution. He had been challenged by Indra Angbo of the Maoist Center. Karki had presented signatures of endorsement from eight members of the Provincial Assembly belonging to the Nepali Congress and 39 from the Unified Maoist Leninist party. Angbo had the support of four parliamentary leaders representing their parties in the assembly.

remains to be enacted. Chief ministers from all provinces expressed concern over the lack of clarity in jurisdictions vis-à-vis the federal government in 2023. The critical issues that were discussed were police integration, the enactment of the Federal Civil Service Act, collaborative efforts in formulating laws related to common rights, equitable distribution of benefits from national forests, financial federalization, and the implementation of software for driving licenses.

Three years after the enactment of Federal, Provincial, and Local Level Acts, a formal dialogue was held between the different level leaders on 2 July 2023. The meeting, chaired by Prime Minister Pushpa Kamal Dahal decided to formulate a work plan, enact the Federal Civil Service Act, establish the Federal Education Act, and address duplications in developmental projects. The meeting also delved into Schedule 9, which outlines the common responsibilities of the three tiers of government.

Governance and Human Rights

The concern for good governance is a shared concern of all citizens. However, the mid-term review of Nepal’s 15th five-year plan reveals a lack of progress towards enhancing governance. Out of the eight indicators for good governance, only two have been met, one has made some progress, while three are still short of the target. There was no information on the status of two remaining indicators. In terms of the 10 main goals in the periodic plan, four had received a green indication, five were marked yellow, and one had been flagged red. The areas with less favorable results include the indicators for the rule of law, global competition, and ease of doing business. (Rijal. 2022/23).

Even though Prime Minister Pushpa Kamal Dahal emphasized the importance of good governance during oath-taking, both the state and political

Table 3.2.5: Fiscal Federalism

The major issues in federalization are distribution of taxes, financial allocations, and responsibilities across the three tiers of government. There is a lack of transparent discussions to resolve these issues. It would require all stakeholders to transparently discuss, collaborate, coordinate, and agree on addressing these issues in order to attain the vision of a “Prosperous Nepal, Happy Nepali.” There have been voices expressing dissatisfaction with federalism as it is and this is a consequence of the lack of clarity among governments on the idea of collaboration and sharing of responsibilities. Financial federalism is key to effective federalism envisioned by the Constitution. There are provisions for this in the Government Financial Management Act 2017, the National Natural and Financial Commission 2017, and the Local Government Operation Act 2017, among others. What stands out is the failure to enforce these laws, which primarily is the responsibility of the federal government.

parties have not demonstrated sincerity in implementation. While amending the Civil Services Act might address some technical issues, it cannot eradicate the deep-rooted malpractices in the bureaucracy. There are two major issues requiring political concern: citizen primacy and rule of law. It is the responsibility of the state to facilitate the citizen wishes and monitor them alongside. The state should not hinder creative endeavors of citizens on the grounds that they are not explicitly provisioned for in law. Citizens should be free to engage in any lawful activity, except those explicitly prohibited by law. Nepal’s bureaucratic system continues to be constricted by the narrow direction explicitly outlined by government actions or legislation. It appears near to impossible to bring any policy or plan to fruition until a drastic overhaul of the bureaucracy. Stakeholders should learn from the harrowing example of the death of over 3 dozen earthquake victims due to bureaucratic red tape in aid access, and work to efficiently reform the bureaucracy.

Conclusion

In 2023, like previous years, human rights matters took a backseat, with the government falling short of meeting expectations in terms of ensuring adequate measures for protecting, promot-

ing, and safeguarding the basic rights. At the end of the year, a government minister highlighted these fallacies with his actions at a Lalipur youth protest. Citizens’ rights also continued to become a major concern of all political parties. The focus of the state on holding on to political power left major issues pointed out in this year-book unaddressed such as the inability of government to take adequate measures to

**Table 3.2.6:
Decisions Made in the Meeting**

- ▶ The Secretary of the Ministry of Finance will spearhead a team to eliminate duplication in grants.
- ▶ Efforts will be made to eliminate duplication in development projects.
- ▶ Collaborative efforts will be undertaken to draft laws concerning rights on the list of shared responsibility.
- ▶ A consensus was reached to allow the Chief Administrative Officers to work without undue pressure.
- ▶ A dedicated team will work on establishing a systematic method for archiving data collection.
- ▶ Initiatives will be taken to simplify the process of land acquisition.
- ▶ There will be increased collaboration and coordination among all three tiers of government.

protect human lives, ensure free expression reform prisons, and to take adequate measures to respond to disasters. Overall, the performance of the government was unsatisfactory in terms of protecting lives and in addressing issues related to education, health, consumer rights, the environment, shelter rights, and the concerns of marginalized communities. A notable failure of the government this year is the lack of a demonstrated interest to complete the transitional process.

Recommendations

- ▶ All three tiers of government need to prioritize and work towards fulfilling the fundamental rights in the Constitution of Nepal 2015, including socioeconomic rights to education, food, shelter, etc.
- ▶ In accordance with Nepal's international commitments, a conducive environment needs to be fostered for the safe exercise of human rights
- ▶ All three tiers of government need to be concentrated towards effective implementation of the National Human Rights Action Plan
- ▶ An appropriate budget needs to be allocated to the NHRC per Nepal's UPR commitments, international declarations, and Supreme Court decisions
- ▶ Human rights need to be combined along with environmental and developmental directives to protect the rights of marginalized communities at all three tiers of government

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