



Human Rights in Nepal: An Analysis

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Abstract: The paper, "Human Rights in Nepal: An Analysis," explores how societal discrimination impedes access to fundamental rights for marginalized groups in Nepal, where those groups comprise women, scheduled castes, the elderly, children, the disabled, poor migrants, sexual minorities, etc. Human rights are the rights that a person is born with or inherits from birth, regardless of race, sex, nationality, ethnicity, religion, language, or any other status. It allows individuals to have the right to equality, the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to employment and education, and many more. It argues that a dearth of awareness and resources prevents these communities from claiming their rights, which has affected them socially, economically, culturally, and politically. It highlights various rights associated with the marginalized section in Nepal with regard to the Universal Declaration of Human Rights by the United Nations General Assembly.

Keywords: Human Rights, Equality, Justice, Marginalized People, Fundamental Rights

1. INTRODUCTION

Human rights have been a progressive phenomenon across the world since the inception of the United Nations in 1945 and then the sanctioning of the Universal Declaration of Human Rights by the UN General Assembly on December 10, 1948. The postulation of human rights traverses with a pivotal point to its denomination in fundamental human rights for dignity and to foster equal rights among men and women. Human rights are the rights that an individual inherits regardless of their origin, caste, race, gender, creed, religion, or any other background, and they cannot be denied whatsoever and under any circumstances all over the world.¹ The marginalized people in Nepal are heedless of these universally advocated but domestically implemented inalienable rights, which have emanated as a significant problem in the nation.² Nepalese people were freed from the hogtie of oligarchic Rana rule from 1846 until 1951 by a democratic movement 73 years ago, and the bulky question came to light: whether this freedom was achieved by all the Nepalese or not? Are all Nepalese entitled to enjoy indivisible, inalienable, and inheritable human rights, or are they enjoyable to only a handful of them?³ In preference to retorting these questions, let's commence with what human rights are and the obstacles that lead to human rights. The embodiment of human rights indicates all those rights that are inherent and without which we cannot comfort ourselves as human beings. Human rights play a vital

¹ United Nations High Commissioner for Human Rights, What are Human Rights? (OHCHR, 1993)

<<https://www.ohchr.org/en/what-are-human-rights>> accessed on 19 June 2024

² "2022 Country Reports on Human Rights Practices: Nepal" BY U.S DEPARTMENT OF STATE

<<https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/nepal> > accessed on 19 June 2024

³ Narayan Khadka, Democracy and Development in Nepal: Prospects and Challenges, Pacific Affairs, University of British Columbia, Vol.66. No.1, Spring 1993, pp.44-71 (28 pages)

role in prospering their talent, trait, and moral sense and also allowing them to comply with their considerable and spiritual demands.⁴

2. ORIGIN AND DEVELOPMENT

The concept of human rights is as old as human civilizations in the context of Nepal. The Sanatana Dharma (Eternal Law or Universal Moral Code) was followed by the Vedic people in ancient times and amounted later to Hinduism. This idea is at the core of both Hinduism and Buddhism, where there were several sects and beliefs in existence during the Vedic era, and the Vedas sought to incorporate them in their verses or mantras so that the Vedas would be allowable wholly. This inclusive approach is embodied in the image of the Sanatana Dharma, where the major cardinal philosophical concepts of the Sanatana Dharma are brahman, atman, karma (fruit of work), and transmigration. At the core of the Hindu-Buddhist way of life is personal liberty, which is strongly inculcated in the notion of sanatana dharma, which is found not only in Hinduism and Buddhism but also in many other belief systems of the East.⁵

In the epic scripture Bhagavad Gita, chapter 13, verse 28, Lord Krishna says that “they alone truly see, who perceive the Supreme Soul accompanying the soul in all beings, and who understand both to be imperishable in this perishable body.” The verse unequivocally stresses universality and equality, which recognize the inherent value and dignity of every individual, regardless of their background, beliefs, or any other external factor.⁶ In the Hindu concept of freedoms, the five social freedoms were freedom from violence, want, exploitation, violation, early death, and disease.⁷ In the Dhammapada: The Buddha’s Path of Wisdom, verse 129, “All tremble at violence; all fear death; putting oneself in the place of another, one should not kill nor cause another to kill.” It highlights the right to life and security of a person, and it implies that harming others is a severe violation of human rights.⁸

At the time of the autocratic Rana's era, Oligarchy Rana’s trounced Nepalese diametrically in the political, economic, cultural, religious, and social fabric by depriving them of their rights for 104 years (1846 until 1951). Consequently, after immense inequality and discrimination, Nepalese leaders like BP Koirala and citizens began to revolt against the Ranas for their freedom of speech, such as the right to life, the right to equality, etc.,⁹ which was a major motivation paved by the independence of

⁴ SP. Subedi, *The Working of Human Rights, Law and Justice, A journey from Nepal to Nobel Nominee*, (1st ed. 2022) *Routledge* <https://doi.org/10.4324/9781003271543> accessed on 19 June 2024

⁵ SP. Subedi, *Human rights in eastern civilizations: Sanatana Dharma as a way of life*, *Nepal Live Today*, (1 December, 2023) <<https://www.nepallivetoday.com/2023/12/01/long-read-human-rights-in-eastern-civilizations-sanatana-dharma-as-a-way-of-life/>> accessed on 20 June 2024

⁶ Bhagavad Gita Chapter 13.28 (BG 13.28: They alone truly see, who perceive the Paramātmā (Supreme Soul) accompanying the soul in all beings, and who understand both to be imperishable in this perishable body.) <Chapter 13: Kṣhetra Kṣhetrajña Vibhāg Yog – Bhagavad Gita, The Song of God – Swami Mukundananda> accessed on 20 June 2024

⁷ S.V. Puntambekar, *The Hindu concept of human freedoms*, *The UNESCO Courier*, (4 October 2018) <https://courier.unesco.org/en/articles/hindu-concept-human-freedoms?TSPD_101_R0=080713870fab2000fa0316b3a09d05e58af4b3a9248573a9e476c18110ffc28f3801bccdf43f63bf08bc5fcbb4143000a8738d1ff78e2a7f38ce2f44267d5b178d422ac4ee575c5fa6a211ca1056a27b94da6f28e09a7e2f7cd9dfd57d9fc2e3> accessed on 20 June 2024

⁸ Acharya Buddhakkhita, *The Dhammapada: The Buddha’s Path of Wisdom*, Buddhist Publication Society Kandy, Sri Lanka < https://www.buddhanet.net/pdf_file/scrndhamma.pdf > accessed on 21 June 2024

⁹ CP. Singh, *RISE AND GROWTH OF ANTI-RANA MOVEMENT IN NEPAL*, *Indian History Congress Vol. 65* (2004), pp. 992-1002 (11 pages)

India on August 14, 1947, from British imperialism.¹⁰ The first impulse toward fundamental rights was perceived in the Government of Nepal Act 1948 (2004 B.S.), which guaranteed every Nepalese the freedom of personal liberty, freedom of speech, freedom of press, freedom of assembly and organization, freedom of religion, complete equality before the law, affordable and speedy justice, universal free compulsory elementary education, universal and equal suffrage for all adults, and security of private property.¹¹ Thereafter, a cycle of constitutions was adopted in the last 76 years on different time periods, such as in 1951 (2007 B.S.), 1959 (2015 B.S.), 1962 (2019 B.S.), 1990 (2047 B.S.), 2007 (2063 B.S.), and the Constitution of Nepal 2015 (2072 B.S.), which shed more light on gender equality, same-sex marriage, and marginalized community rights for inclusivity and equal sustainability.¹²

3. FUNDAMENTAL RIGHTS IN NEPAL

We usually apprehend people grappling for their rights. What are these bulky rights for which people are grappling, and what is the purpose of these rights? Why do people have to scuffle for their own rights?

The fundamental rights are deemed to be the rudimentary rights of all citizens without any discrimination over gender, caste, ethnicity, creed, color, race, religion, etc., where these rights are fully developed in the Constitution of Nepal 2015. Fundamental rights are not the same as ordinary laws, which suggest no other law, custom, or administrative action can curtail these fundamental rights.¹³

In the case of *Rajendra Dhakal v. Nepal Government, Home Ministry, and others*,¹⁴ The apex court established that the right to seek truth about the incidents of the conflict period is an integral part of the right to life, the right to freedom, and the right to justice. The court has laid down the principle that the act of seeking truth is not a matter of the discretionary right of the state but rather a mandatory duty of the state. The Supreme Court of Nepal issued a unanimous ground-breaking verdict by decriminalizing homosexuality, making legal arrangements for same-sex marriage, and protecting their rights guaranteed by the constitution and human rights instruments in the case of *Sunil Babu Pant and Others v. Nepal Government and Others* (2007)¹⁵. In congruence with it, the present Constitution of Nepal, Article 18, states that gender and sexual minorities will not be subjugated by the state or by the judiciary in the application of laws, and Article 42 lists gender and sexual minorities among the groups that have a right to participate in state mechanisms and public services to promote inclusion.¹⁶

¹⁰ Kanchanmoy Mojumdar, *Nepal and the Indian Nationalist Movement*, Firma K.L. Mukhopadhyay, Calcutta, 1975 viii, pp. 110

¹¹ Part II, Fundamental Rights Enshrined in the GOVERNMENT OF NEPAL ACT 1948

<<https://www.lawcommission.gov.np/en/wp-content/uploads/2018/09/government-of-nepal-act-2004-1948.pdf>> accessed on 21 June 2024

¹² Shraddha Pant, 'TIMELINE OF NEPALI CONSTITUTIONS' *Ask Me About Nepal*,

<<https://askmeaboutnepal.com/timeline-of-nepali-constitutions/>> accessed on 21 June 2024

¹³ Constitution of Nepal, 2015, Part 3

<<https://lawcommission.gov.np/en/wp-content/uploads/2021/01/Constitution-of-Nepal.pdf>> accessed on 22 June 2024

¹⁴ (Writ No. 3775, Registration Date 1999). This case is widely known as a disappearance case.

¹⁵ Writ No. 917 of the year 2007 (2064 B.S.)

¹⁶ Supra note 13 art.18. and art.42

The Supreme Court of Nepal regards fundamental rights as human rights and is always in a position to use its extraordinary jurisdiction power, as mentioned in Article 133¹⁷. The Constitution comprises an extensive listing of rights for all citizens, including the right to education, health, housing, employment, and many more from Articles 16–46 of Fundamental Rights¹⁸. It incorporates almost all the rights set forth in the Universal Declaration of Human Rights, to which Nepal is a party, and some of the major inalienable rights can be itemized.

3.1 Right to Equality

The right to equality gives equality to all the citizens of Nepal. The right to equality prohibits discrimination made on grounds of origin, religion, race, caste, tribe, sex, physical condition, disability, condition of health, marital status, pregnancy, economic condition, language or region, ideological conviction, or on similar grounds.¹⁹

In the celebrated case *Meera Kumari Dhungana vs. HMG and others*,²⁰ The Supreme Court held that No. 16 on the chapter on Partition of Property of Muluki Ain 2020 discriminates against women from having equal inheritance rights over parental property as compared to their male counterparts. Since this landmark case, it has helped to ensure the equal rights of women to parental property in Nepal.

Laxmidevi Dhikta, et al. v. the Government of Nepal, Office of the Prime Minister, and the Council of Ministers, et al.,²¹ The Supreme Court has given a judicial standpoint, demanding accessible abortion facilities and a distinct law to be made in relation to abortion. On the basis of this writ order, the “Safe Motherhood and Reproductive Health Rights Act, 2018 (2075 B.S)”²² is found to be promulgated and in effect.

3.2 Right to Privacy

The right to privacy ensures the privacy of any person, including his or her residence, property, documents, data, correspondence, and matters relating to his or her character, except in accordance with law.²³

In the case of “*Annapurna Rana v. Gorakh Shamsheer J.B.R., et al.*,” a judicial principle was propounded about privacy and reproductive rights. It states that conducting a virginity test as proof of whether or not a woman is married or has become a mother is against a woman’s inviolable rights to privacy.²⁴

In the case of *Advocate Sapana Pradhan Malla vs. Prime Minister, Nepal Government, and Office of the Council of Ministers, 2007*,²⁵ The Court gave a unanimous decision upholding the right to privacy of women, children, and persons infected by HIV/AIDS involved in legal proceedings. In order to exercise their right to judicial remedy and access to justice effectively, it was required that their name and identity be protected during legal proceedings, as women, children, and persons affected by HIV/AIDS had a frail economic and social footing in the country. The Court further held that the revelation of information was an exception to the general rule of privacy. Therefore, the right to

¹⁷ Supra note 13 art. 133

¹⁸ Ibid.

¹⁹ Supra note 13 art.18

²⁰ NKP 2052, Decision No. 6013

²¹ NKP 2067, Decision No. 8464

²² The Right to Safe Motherhood and Reproductive Health Act, 2018 (2075 B.S.)

<<https://www.lawcommission.gov.np/en/wp-content/uploads/2019/07/The-Right-to-Safe-Motherhood-and-Reproductive-Health-Act-2075-2018.pdf>> accessed on 22 June 2024

²³ Supra note 13 art.27

²⁴ NKP 2055 Decision No. 6588

²⁵ Writ No. 3561 of the year 2006 (2063 B.S.)

privacy was integral to the enjoyment of a dignified life, and any violation of this right could make the family members of the person susceptible to discrimination.

3.3 Right to Employment

The right to employment ensures that every citizen has the right to an employment opportunity. The terms and conditions of employment and unemployment benefits are to be as provided for in federal law.²⁶

In the case of *Rina Bajracharya v. His Majesty Government (HMG) 2057 B.S.*,²⁷ equal rights in employment were ensured, stating that the provision of services and facilities should not be discriminatory between male and female employees working in the same position.

In the cases of *Sita Acharya v. Ministry of Health (2055 B.S.)*²⁸ and *Prakash Mani Sharma v. Ministry of Women (2062)*,²⁹ It was held that unequal probation periods for female employees under different services are against their rights to equality. In *Prakash Mani Sharma v. Ministry of Women, (2065 B.S.)*,³⁰ It was related to protecting the rights of women working in dance and cabin restaurants. In this case, a directive order was issued to enact a law on the operation of dance bars, dance restaurants, cabin restaurants, and massage parlors to protect the fundamental rights and employment of these women. In corollary, the *Sexual Harassment at Workplace (Prevention) Act, 2014 (2071 B.S.)*,³¹ has been formulated and is in effect till now.

3.4 Right to Health

The right to health ensures that every citizen has the right to free basic health services from the state, and no one has to be deprived of emergency health services and has the right to access clean drinking water and sanitation.³²

In the renowned case of *Surya Prasad Sharma Dhungel v. Godavari Marble Industries and others, 2049 B.S. (1992)*,³³ The Supreme Court propounded that a clean and healthy environment was part of the right to life and the right to a clean environment, which is closely connected with the health of the people.

In *Jung Bahadur Singh v. Council of Ministers 2068*,³⁴ The judicial decision provides family conjugal visits in prisons, enabling imprisoned people to exercise their reproductive health rights. Similarly, in the case titled *Manju Tamang and Others v. the Office of the Prime Minister and Council of Ministers, Government of Nepal, Singh Durbar and Others 2070*,³⁵ the Supreme Court underscored the need to ensure all women (including those who are marginalized and impoverished) access to all types of contraceptive methods and services.

²⁶ Supra note 13 art.31

²⁷ NKP 2057, Decision No. 6898

²⁸ NKP 2055, Writ No. 3975

²⁹ NKP 2063, Decision No. 7634

³⁰ NKP 2065, Decision No. 8005

³¹ The *Sexual Harassment at Workplace (Prevention) Act, 2014 (2071 B.S.)* was enacted to ensure the right of every person to work in a safe, fair, and dignified environment.

<<https://lawcommission.gov.np/en/wp-content/uploads/2021/12/The-Sexual-Harassment-at-Workplace-Prevention-Act-2014-2071.pdf>> accessed on 22 June 2024

³² Supra note 13 art.35

³³ Writ No. 35 of the year 1992 (2049 B.S.)

³⁴ NKP 2068, Decision No. 8631

³⁵ Writ No. WO-0194, Year 2070 B.S

Although many rights are available in the Universal Declaration of Human Rights, the fundamental rights were inaccessible at the time of the enactment of the Constitution. As time passes, many judgments and case laws have given a novel way of looking at a particular law, and the incalculable interpretation made by the courts has expanded the ambit of fundamental rights available in Nepal.

As discussed above, there are abundant case laws and judgments regarding the interpretation of fundamental rights. However, Nepal is still lacking in providing proper access to these rights to everyone, especially the marginalized cluster.³⁶

4. THE UNIVERSAL DECLARATIONS OF HUMAN RIGHTS

At the time of World War II, millions of people lost their lives. After the end of World War II in 1945, the victorious nations and states came together and dodged to prevent future wars. Hence, they formed the United Nations to strengthen human rights and peace. The United Nations created the Universal Declaration of Human Rights, the first human rights document. The committee was chaired by Eleanor Roosevelt, who created this document that provides rights for all mankind. On December 10, 1948, the United Nations adopted the Universal Declaration of Human Rights.

The Universal Declaration of Human Rights is acknowledged as a milestone document in the history of human rights insofar as this document is also regarded as the first truly universal human rights document. Therefore, it was adopted and announced under resolution 217 A (III) by the General Assembly of the United Nations.³⁷

The United Nations also laid hold of other options before the adoption of the Universal Declaration of Human Rights. The United Nations generated international laws to protect human rights, which took almost 20 years to complete. International laws are those that are agreed upon by many countries wholeheartedly. Therefore, many countries that belong to the United Nations acquired these rights earlier, and in relation to this, we can see that the basic laws of many nations epitomize the rights contained in the declaration.

The Universal Declaration of Human Rights commenced by acknowledging that 'the inherent dignity of all members of the human family is the foundation of freedom, justice, and peace in the world'. It manifests that human rights remain a potent symbol of universality and are to be enjoyed by all people across the world. This declaration consisted of 30 rights, which enclosed all the human rights required for an individual all over the world.³⁸

5. THE LINEAGE OF HUMAN RIGHTS

The expedition for human rights has been progressing since 1215, when Magna Carta was initiated to give people new rights and make King John subject to the law. Although there had been four generations of human rights that had been disseminated, At the initial point, civil and political rights, like the right to life, liberty, free speech, and privacy, also known as subjective rights, were considered first-generation human rights. Later, rights focused on economic, social, and cultural rights, like the right to social security, health, and education, also known as solidarity rights, were accepted as second-generation human rights. The third generation of human rights can be identified as collective rights like the right to self-determination, a healthy environment, communication, and

³⁶ Committee on the Elimination of Discrimination Against Women reviews the report from Nepal, Office of the United Nations High Commissioner for Human Rights, (23 October 2018)

<<https://www.ohchr.org/en/press-releases/2018/10/committee-elimination-discrimination-against-women-reviews-report-nepal> > accessed on 23 June 2024

³⁷ United Nations, International Bill of Human Rights, 217 A (III)

<<https://documents.un.org/doc/resolution/gen/nr0/043/88/pdf/nr004388.pdf?token=KXebLmaSgprHFJ5kBb&fe=true> > accessed on 23 June 2024

³⁸ Universal Declaration of Human Rights, 10 December 1948

<<https://www.un.org/en/about-us/universal-declaration-of-human-rights> > accessed on 23 June 2024

autonomy to make their own laws. The fourth generation of human rights includes the rights related to genetic engineering, which are based on the doctrinal debate in regards to the recognition or prohibition of certain activities.³⁹

These advances in human rights are the result of various civil actors who have articulated human rights violations and advocated the promotion of access to justice in Nepal. Human rights activists have foregrounded and highlighted colossal contemporary issues that aim to ensure the meticulous legal recognition and actual realization of human rights. In Nepal, multiple challenges have been caused throughout the decades that stress the finer articulation of human rights, which has absorbed identity-based violence, communal violence, regional disparities on counts of poverty, infrastructure growth, availability of natural resources, administrative mechanisms for governance, etc. In line with it, there are several state-induced problems as well, such as internal displacement, ethnic identity separatist groups and their demands, armed forces powers, injustice, and violence, all of which are violations of human rights. These issues have been given due respect along with protection, which resulted in the promotion and fulfillment by various state agencies in India to protect the human rights of individuals.⁴⁰ The subject matter of human rights is dynamic, as is obvious from the immense incidents that happen as quickly as any sort of violation takes place. The human rights of individuals are violated, whether in the form of torture by police in their custody, especially on under-trials; custodial deaths; discriminatory treatment and unlawful detention of religious minority communities; scheduled castes and scheduled tribes; targeted attacks; hate crime; or violence, which are widely famed.

6. SAFEGUARDS IMPARTED TO THE MARGINALIZED PEOPLE IN NEPAL

Marginalized people are known as a group of people who are treated as unimportant and are usually regarded as having lower status in social strata. They are referred to as untouchables in many sections of Nepal's Terai belt. Nepal is a multi-cultural, multi-linguistic, multi-religious, and multi-ethnic secular country, and hence, marginalized people find it difficult many times to enjoy their human rights to their fullest extent.

The vulnerable groups include women, Scheduled Castes, the elderly, children, the disabled, poor migrants, and sexual minorities, which face discrimination in various aspects of society. These groups are generally exposed to significant barriers due to their multiple identities.⁴¹ Every group should have equal access to the services and opportunities imparted by the state for the upliftment of the vulnerable section. The government must ensure that there is no discrimination against any section of society. There have been numerous instances where we can find specific references to these groups in the Constitution of Nepal. For instance; In *Lawyer's Association for Human Rights of Nepalese Indigenous Peoples v. Prime Minister and Council of Ministers*,⁴² The Supreme Court observed that it is reasonable to expect the state to comply with and implement the obligations required by signing a treaty.

³⁹ Adrian Vasile Cornescu, *The Generations of Human Rights*, 2009, Faculty of Juridical Sciences University "Constantin Brancusi" of Targu- Jiu, Romania

<https://www.law.muni.cz/sborniky/dny_prava_2009/files/prispevky/tvorba_prava/Cornescu_Adrian_Vasile.pdf > accessed on 24 June 2024

⁴⁰ Richard Bennett, *Nepal's Journey Towards Respect for Human Rights*, Office of the High Commissioner for Human Rights Nepal 2008

<https://nepal.ohchr.org/en/resources/Documents/English/other/2008/December/2008_12_OHCHR_Vision_E.pdf > accessed on 24 June 2024

⁴¹ Dr. Janak Rai, *Deepening federalism: Post-federal analysis on marginalised communities in Nepal's Tarai region - Federalism in Nepal*, *International Alert and Saferworld*, 2019, Vol.3, pp. 8-16

<<https://www.international-alert.org/app/uploads/2021/08/Nepal-Federalism-Vol3-EN-2019.pdf> > accessed on 24 June 2024

⁴² (Writ Petition: Mandamus 074-WO-0239)

In the case of Man Bahadur Bishwokarma vs. Ministry of Law, Justice, and Parliamentary Affairs 2049,⁴³ The Supreme Court held that Clause 10(a) reveals that the prohibition of discrimination as directed by Article 11(4) of the Constitution itself is sufficient for prescribing the penalty for caste-based discrimination. Later on, the caste-based discrimination and untouchability (offense and punishment) Act, 2011 (2068 B.S.), was introduced to criminalize the caste-based discrimination and violence in the Nepalese community.⁴⁴ In a writ petition titled Pradhosh Chhetri v. the Office of Prime Minister and Council of Ministers 2061 (2004),⁴⁵ It was stated that the decision to provide reservations to Tribhuvan University employees without making a law is against the Constitution. It states that laws need to prescribe a clear basis to decide how to protect women, marginalized people, and people who need protection, and that a program should be implemented for the protection and balanced development of women and groups that are in need.

In the case of Sunil Babu Pant v. Office of the Prime Minister and Council of Ministers 2073 (2017),⁴⁶ It was emphasized that groups with special sexual orientation and gender identity groups should be able to enjoy political, social, cultural, and economic rights in the same way as people from other groups. The order also issued identity-based citizenship to ensure the right to identity for people with special identities. Similarly, in the writ petition Dilu Buduja v. Office of Prime Minister and Council of Ministers 2070,⁴⁷ It was ordered that people from the third gender community should be given passports specifying “third gender” as opposed to just “male” or “female.”

7. NATIONAL HUMAN RIGHTS COMMISSION ACT, 2068 (2012)

The National Human Rights Commission Act 2012 has replaced the Human Rights Commission Act 1997, and it was enacted on January 20, 2012.⁴⁸ It was expected that the new act would have provided competence, autonomy, and independence to the Commission for fulfilling the duties of ensuring respect, protection, promotion, and effective implementation of human rights as enshrined by the Interim Constitution 2007 (2063 B.S), which made the NHRC an independent constitutional body.⁴⁹

The National Human Rights Commission Act 2012⁵⁰ was introduced to ensure the respect, protection, and effective implementation of human rights. It provides provisions for the Constitution of the National Human Rights Commission, the appointment of its chairperson and other members, the removal of the members of the Commission, the terms and conditions of service of members, the procedure to be regulated by the Commission, officers, and other staff, the functions and powers of the Commission, and therefore the method to be followed just in case of a complaint proceeding, and provisions related to reconciliation and decisions to be made.

⁴³ NKP 2049, Decision No. 4670

⁴⁴ The Caste-Based Discrimination and Untouchability (Offense and Punishment) Act, 2011 (2068 B.S.) <<https://www.lawcommission.gov.np/en/wp-content/uploads/2019/09/The-Caste-Based-Discrimination-and-Untouchability-Offence-and-Punishment-Act-2068-2011.pdf>> accessed on 24 June 2024

⁴⁵ Writ No. 3059 of Year 2061

⁴⁶ Application No. 070-WO-0287, NKP 2073 Decision No. 987

⁴⁷ NKP 2070 Decision No. 9048

⁴⁸ Necessity of amendments in National Human Rights Act 2012 for competence, autonomy and independence of the NHRC, *Advocacy Forum Nepal*,

< <https://www.advocacyforum.org/downloads/pdf/nhrc-act-review.pdf> > accessed on 25 June 2024

⁴⁹ THE INTERIM CONSTITUTION OF NEPAL 2007 (2063 B.S.)

<https://constitutionnet.org/sites/default/files/interim_constitution_of_nepal_2007_as_amended_by_first_second_and_third_amendments.pdf> accessed on 25 June 2024

⁵⁰National Human Rights Commission Act, 2012 (2068 B.S)

<[https://www.nhrcnepal.org/uploads/law/National+Human+Rights+Commission+Act_\(1\).pdf](https://www.nhrcnepal.org/uploads/law/National+Human+Rights+Commission+Act_(1).pdf)> accessed on 25 June 2024

The principle duty of the National Human Rights Commission, as mentioned in the current constitution,⁵¹ is to respect, protect, and promote human rights and ensure effective enforcement thereof. The commission has to inquire, on its own initiative or on petition, and investigate complaints of violations of human rights by an individual or group and make recommendations for action against the violators. It has to coordinate and collaborate with civil society to enhance awareness of human rights. The Commission may review prevailing legal provisions so as to ensure that these provisions are in line with international human rights standards and submit necessary recommendations for their effective implementation. The power encompasses the study of international human rights treaties and instruments and submits necessary and appropriate recommendations to the government for effective implementation.

8. CONCLUSION

As discussed above, in Nepal there are a multitude of provisions, guidelines, case laws, precedents, fundamental rights, and commissions for the protection of human rights. Instead, several acts of violence and conflicts take place, which are stirred up by the extreme violations of human rights. Especially, the marginalized community of society is the prime part of our country and is being exploited and deprived of access to basic human requirements like food, health, education, employment opportunities, access to justice and equity, etc. The government has frequently been trying to straitjacket away all the issues regarding the breach of human rights through enormous governmental activities to improve the provision of services at the grass-roots level, especially in the rural domain. However, still, the vulnerable section of society is unreceptive to these provisions and is being oppressed and treated as unequal. The areas in which our nation is flawed are the literacy rate and the implementation of paramount policies and programs that may benefit vulnerable groups substantially. Throughout the paper, we have discussed tremendous types of human rights and significant safeguards and provisions made for the protection and promotion of human rights. Succinctly, human rights are the fixed moral privileges that belong to an individual as a consequence of being human. Although the National Human Rights Commission Act, 2012 (2068 B.S.), was enacted to prevent the breach of human rights by individuals, this Act has been proven to be insufficient in some instances, especially in the context of vulnerable groups. Marginalized groups are also a consequential part of our country, as they also contribute to the social, political, and economic spheres of a nation. Therefore, it is inevitable to protect the utmost interests of people belonging to the scheduled caste, the elderly, the disabled, women, children, sexual minorities, etc. Hence, to make all the provisions reachable to the vulnerable sections of society, the National Human Rights Commission and the Law, Justice, and Human Rights Committee 2074 need to streamline the procedure to be followed by the vulnerable sections to ensure appropriate access to perch for their human rights.

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⁵¹ Supra note 13 Part. 25