

# THE CONDITION OF COURT HOUSES OF NEPAL





*A symbol of the state's authority and commitment to its citizens to protect them and stand firm in the preservation of their rights, a courthouse is more than a building owned by the state where trials are held and records are kept.*

A courthouse represents the establishment and maintenance of law. Local courthouses are usually located in or near the center of the local community and reflect the civic, social and economic vitality of the community.

From the dawn of civilization, courts have been held in special 'fixed' places where the citizenry went for resolution of disputes. The fixed places for dispensing justice has evolved from 'polished stones in a sacred circle' or 'a place of justice signified by a tree and an enclosure of hazel branches' to structures with courtrooms and facilities to house staff and judges and sometimes the latest electronic equipment.

Courts and citizens today are concerned with judicial independence which is the foundation for an open, free, transparent democracy. Neither can exist without the other if there is to be true judicial independence. The keystone for judicial independence is respect for the judiciary by both citizen and state.

A state cannot be successful until it has a proper ruling system. To get the status of a successful state

ever unit for the state has to run effectively, efficiently and the people should have direct access to all services of the state.

The judicial system in a democratic setup is responsible for providing quick, easy and effective justice to its people. The people's trust in the system is its greatest asset. In order to ensure the citizen's rights, the constitution of Nepal has ensured a free, independent and able judiciary system.



## The Judicial System in Nepal

*The history of the legal system in Nepal can be categorized into three phases complying with the then existing political system. The first phase is the judiciary under the Rana Regime, the second phase under the Panchayati system and the third after the people's movement in 1990.*



- The first legal code, the 'Muluki Ain' in 1854 was the start of the judicial system in Nepal. Introduced by the first Rana Prime Minister, Jang Bahadur Rana, it was modeled on the British and Indian codes with the rules of behavior that had evolved over the centuries.

- Under the Panchayat Constitution, the courts system was headed by the Supreme Court composed of a chief justice, nine judges, and a small secretarial staff. Under the Supreme Court were fourteen zonal courts, which in turn oversaw seventy five district courts throughout the country. All the lower courts had both civil and criminal jurisdiction.

- The constitution of 1990 reorganized the judiciary, reduced the King's judicial prerogatives and made the system more responsive to elected officials.

# Current condition of the court buildings

*A well designed, well maintained, clean courthouse is a commitment by the State to judicial independence. The courthouse represents stability- a statement by the State that will protect citizen's rights over the years. The older and better maintained the courthouse is, the more powerful the State's guarantee to its citizens. Well maintained, clean courthouses demand the citizen's respect for law and judicial independence.*



Because of lack of infrastructure and human resources, only 55,317 out of 1, 11,678 cases were cleared. (Annual Report of the Supreme Court of Nepal 2060/61)

For a court that was built to look after a mere 6000 cases a year, the workload has increased by a factor of five. However, the space and resources available remain the same. The corridors have been turned into small cubicles and spaces are cramped.

- *Being one of the four main wings of a State, the Judiciary is only entitled to 0.4% of the total budget. Staff is poorly paid and there are no reserve funds for infrastructure expansion.*
- *Most district courts in Nepal look no better than slum settlements. Employees fear that the buildings may collapse at any time. Even basic infrastructure, including proper toilets, kitchens and office space is lacking.*
- *Some buildings are more than 30 years old. These are mostly residential building made up in*

local styles and not for a particular office purpose.

- Most trials in the mountainous regions are conducted out in the sun because it is so cold inside.
- Decisions are delayed for months and even years due to the lack of proper file management.
- Almost no computers are used to analyze the data. Important details are usually missed out.
- Files are wrapped in pieces of cloth in closets and stored in dark rooms. The files are however not safe from mice, water and fungi. There are even a few reported cases of snakebite in these rooms.
- Every year, more than 1500 cases are being filed at the Supreme Court. (Court Reform Report- 2048 BS)  
Given that this data was compiled over 13 years ago, things have only taken a turn for the worse. There is a definite lack of efficiency in the decision making process due to these factors.

## What do we need?

*Understanding that respect for and confidence in the Judiciary is a key element in judicial independence. Judicial independence is a major element in democracy and the citizenry must advocate for and support the judiciary. This includes advocating for sufficient funding for judicial administration of the courts. If the public does not press for adequate courthouses that are well maintained and clean, then respect for and confidence in the judiciary diminishes. If the public does not press for courthouses that have adequate space and facilities for the efficient administration of justice, then the public will get a legal system that gives the lowest quality of justice.*



- Professional trainings on effective judicial system.
- Trainings of use of computers and relevant software.
- PR exercises to maintain improve the courts relations with the people
- Strengthen the judicial administration, which should be the courts where judicial independence is truly recognized, has the responsibility for submitting sufficient budgets and overseeing the spending of the funds.



Courts do not necessarily be a large 'museum like' structure to solve cases. The basics of the courthouses are that they have to be efficient, clean and well maintained with staff that provide prompt and courteous services and judges that quickly dispense justice fairly. The citizens will accept the authority of the courts to dispense justice and decided disputes.

- Well managed clean, secure, and well-lighted courts with sufficient space for judges and staff to perform the functions necessary for an efficient, effective courthouse.
- Standardization of courthouses
- To get the highest quality of justice, citizens must demand sufficient funding for administration of courts, including judicial and staff salaries, judicial and staff training and clean and well-maintained buildings.



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