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**Working Paper**

## Pathways to a new eco-social contract in Nepal: Judicial interpretations of constitutional guarantees and their implementation

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WORKING PAPER 2024-04

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# **Pathways to a New Eco-Social Contract in Nepal**

## **Judicial Interpretations of Constitutional Guarantees and Their Implementation**

*Sachin Siwakoti*

June 2024

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## **Abstract**

Nepal's democratic transition led to the promulgation of its Constitution in 2015 that guarantees transformative rights across economic, social, cultural, environmental and developmental spheres. The Constitution signifies a shift in the societal contract by introducing an array of fundamental rights, including the right to social justice and the right to a clean and healthy environment, among others. This paper examines Nepal's constitutional journey towards a new eco-social contract, with a focus on the role of the Supreme Court in interpreting these constitutional guarantees. The Court's interventions, such as preventing the exploitation of natural resources for infrastructure, recognizing the interconnectedness of environmental rights with other fundamental rights, and establishing the role of the state as a trustee of natural resources, highlights its role. The paper analyzes some key court decisions related to balancing environmental protection and development following the promulgation of the new Constitution. It also assesses their implementation status and identifies obstacles in the full realization of the transformative potential of a new eco-social contract in Nepal.

# Contents

Acronyms .....	iii
Acknowledgements.....	iv
1. Introduction .....	1
2. Historical Overview.....	2
3. Basis for Eco-Social Transformation in the Constitutional and Legal Framework of Nepal.....	4
4. The Judiciary and Eco-Social Transformations.....	5
4.1 The need for judicial interventions .....	6
5. Judicial Interpretations on Concerns of Environment Protection and the Human–Nature Relationship .....	7
5.1 Airport construction case.....	8
5.2 Case concerning the protection of the Chure range.....	9
5.3 Protection of humans and the environment from natural disasters .....	10
5.4 National Park protection case.....	10
5.5 Regulation of the use of plastic .....	11
6. Judicial Outlook.....	11
7. Implementation Concerns and Ways Forward .....	12
8. Conclusion .....	15

## Acronyms

ADB	Asian Development Bank
Adv	Advocate
DN	Decision Number
EIA	Environmental Impact Assessment
IEE	Initial Environmental Examination
INSEC	Informal Sector Service Centre
NKP	Nepal Kanoon Patrika
NPR	Nepalese Rupee
PM	Prime Minister
SC	Supreme Court
SDG	Sustainable Development Goals
UN	United Nations
UNDRR	United Nations Office for Disaster Risk Reduction
UNEP	United Nations Environment Programme
UNRISD	United Nations Research Institute for Social Development
UNSECO	United Nations Educational Scientific and Cultural Organization
USD	United States Dollar

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## 1. Introduction

For the first time in its history, Nepal, through a democratic transition, promulgated a people-mandated constitution in 2015. This Constitution carries several transformational guarantees in economic, social, cultural, environmental and development rights, representing a drastic shift. The inclusion of marginalized and minority people in the state structure as a constitutional guarantee signifies a major transformation in the social contract. Empowerment, development, access to services, and participation of marginalized communities are assured as part of the right to social justice and social security. Provisions concerning the relationship of citizens and state with nature, environment and natural resources are included as aspects of transformation. The right to a clean environment is guaranteed as fundamental. Principles of sustainable use of natural resources, intergenerational equity, equitable distribution of the fruits of development, maintenance of ecological balance, prior informed consent, public participation, polluter pay principle, and disaster preparedness inclusive of rescue and rehabilitation are recognized as obligations of the state. These provisions have laid a basis for a new-eco social contract in Nepal.

The Supreme Court of Nepal has played a crucial role in realizing this transformative vision. It has achieved this by clarifying and broadening the scope of application of fundamental rights through expansive interpretation of constitutional guarantees. The Court has also intervened in instances where government actions neglected or undermined these transformations envisioned by the Constitution. This includes issuance of orders preventing the exploitation of natural resources, providing directives to formulate necessary legislation, recognizing the right to environment as integrated and interdependent with other fundamental rights, recognizing the state as a trustee of natural resources, ensuring inclusion of stakeholders in policy processes, etc. Through these measures, the Supreme Court has resisted a nature-versus-development approach that assumes a trade-off between the two. Despite these judicial efforts, the implementation of constitutional provisions and judicial decisions are often weak. It is crucial to assess the status of implementation to identify evidence-based eco-social transformations in practice. The paper explores the constitutional changes that reflect a pathway toward a new eco-social contract in Nepal, along with the analysis of key Supreme Court decisions that interpret constitutional guarantees in this regard. With this, the paper seeks to identify the status of the realization of the rights for such a transformation, and identify the obstacles that hinder this realization.

The first section expounds upon the political and systemic changes in Nepal. It highlights the history of inequality and how the then existing sociopolitical conditions shaped the necessity for the present transformations embodied in the Constitution of Nepal. The paper then delves into the concrete bases of this transformation in the present Constitution, along with examples of legislative and policy changes. This is followed by an elaboration on the role of the Court in materializing these transformations. It then probes into the role played by the Supreme Court of Nepal based on the power and responsibility the Constitution has provided it to protect constitutional values, examining five Supreme Court cases. The final section delves into the obstacles facing the implementation of judicial decisions and protection of constitutional guarantees of eco-social transformation.

## 2. Historical Overview

Nepal promulgated its first people-mandated constitution in 2015. The struggle for democracy involved various movements, ranging from peaceful protests to violent conflicts. Stemming from the Rana oligarchy that ruled over Nepal from 1846–1951, the nation transitioned through phases of democratic and absolute monarchy. This was followed by a decade-long Maoist insurgency (1996–2006) that evolved into a nationwide protest (People’s Movement II) leading to the overthrow of the monarchy. This journey continued with the drafting of an interim constitution in 2006, eventually culminating in the promulgation of the present 2015 Constitution, which established Nepal as a federal republican democratic state.<sup>1</sup> Identity-based movements played a key role in this transition. The Dalit, Madhesh, Indigenous and women’s rights movements aided in pushing for an inclusive democracy, while the movement in the Madhesh region was pivotal in shaping the federal agenda.

The foundation of these movements and a constant demand for socio-economic transformation was based on a longstanding history of discrimination and inequality. This was evident as a socio-political reality, characterized by exclusionary and hierarchical social practices, discriminatory laws, and a lack of representation in the state structure of Nepal. The Country Code (*Muluki Ain*) of 1854 formulated during the oligarchic regime of the Rana family is a historical example of this. This Code articulated a vision of a plural society within a caste-based<sup>2</sup> system by conceptually integrating linguistic, religious and ethnic groups as well as caste into one overarching national caste hierarchy (Pradhan 2007). Rights then were hierarchical, with caste and religion as the basis for legal entitlements, privileges, punishments and immunities. The Country Code institutionalized the already existing bases of discrimination practiced in society as law.

The country saw several changes when democracy was instated in Nepal in 1951 after the end of the Rana regime. This was evidenced by the amendment to the Country Code in 1963 and the promulgation of new constitutions.<sup>3</sup> However, the basic essence of hierarchy was retained in both social practices and law. Despite formally being a democratic nation, the institutionalization of democracy faced multiple challenges. About a decade after the fall of the Rana regime, the then king overthrew a democratically elected government and took sole authority over all governmental powers. All political parties were banned and an absolute monarchial regime was formed.

This regime faced widespread opposition from political leaders and citizens in 1990 with the initiation of the People’s Movement I.<sup>4</sup> The movement led to the end of absolute monarchy, lifted the ban on political parties, and established a constitutional monarchy with multi-party democracy in Nepal. This was followed by the promulgation of the Constitution of the Kingdom of Nepal in 1990. This Constitution incorporated several socio-economic rights,<sup>5</sup> including the right to equality with affirmative actions for the disadvantaged. It also vested the power of judicial review in the

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<sup>1</sup> Constitution of Nepal (2015), art 4

<sup>2</sup> The caste system of Nepal is a socially hierarchical structure that broadly classifies people into four different castes (namely *Brahmin*, *Kshatriya*, *Vaishya* and *Sudra*), each having multiple subgroups within them.

<sup>3</sup> Before the promulgation of the 2015 Constitution, Nepal had transitioned through six different constitutions in the years 1948, 1951, 1959, 1962, 1990 and 2007.

<sup>4</sup> Also known as First *Jana Andolan*- I, First Mass Movement, 1990 People’s Movement

<sup>5</sup> Constitution of the Kingdom of Nepal, art 11-23

judiciary.<sup>6</sup> However, the application of rights was limited, given that most were not absolute and contained restrictive provisions, lacking broad applicability (Ellingson 1991). Nepal also retained its religious identity with recognition as a Hindu kingdom.<sup>7</sup> Although this Constitution made a departure towards democracy and recognition of rights, the promised socio-economic transformation was still a distant reality for the people. Evidence from the mid-1990s suggests that certain elite and social groups owned most of the resources, including land (Singh 2020), while more than 60 percent of the population lived below the poverty line, with gross impacts on human development (World Bank n.d.). The situation, marked by destitution, stagnation of human development, and a highly centralized form of government that rendered it unapproachable to the public, along with long-standing social inequalities, provided the basis for and fueled an uprising known as the Maoist insurgency (1996–2006). The insurgency ultimately resulted in the overthrow of the monarchy and the establishment of a people's republican system. In 2006, political parties and the Maoist faction, supported by several other movements taking place within the nation, initiated the second People's Movement. This paved the way for an inclusive democracy and the pursuit of socio-economic transformation founded on a people-mandated constitution (INSEC 2010).<sup>8</sup>

The process of making Nepal's constitution has been touted as one of the most “intense constitution-making processes in the world” (Tushnet 2015:5), culminating in an eight-year period of multiple political stalemates, dissolution of the first Constitutional Assembly, and finally negotiation of compromises to promulgate the Constitution. As put by the then Speaker of the Constitutional Assembly, the Constitution and constitution-making process attempted to be inclusive in every way. It is reflective of the aspirations held by the people, contrary to previous constitutions, which were neither people-mandated nor inclusive in their formulation (Nembang 2020). The Constitution declares Nepal to be a secular state with a federal structure of governance. The federal structure, having three tiers of governance,<sup>9</sup> including a local level, brings the government closer to the people, contrary to the previous centralized structure of governance.

Several socio-economic and political rights are recognized as fundamental rights by the Constitution. The right to social justice (Article 42), the right to social security (Article 43), the right to environment (Article 30), the right to live with dignity (Article 16), the rights of *Dalit* (Article 40), the rights of women (Article 38), the rights of older persons (Article 41), etc. have now been recognized as non-derogable fundamental rights. The Constitution also guarantees the right to constitutional remedy to seek their enforcement in situations of breach of these fundamental rights. This way, the Constitution has set a path towards transformation by “resolving to build an egalitarian society” based on inclusivity. It aims to ensure social justice based on the recognition of diversity, ending of all forms of discrimination, and ensuring equitable distribution of resources including fair distribution of the benefits of economic development.<sup>10</sup>

<sup>6</sup> Constitution of the Kingdom of Nepal, art 88

<sup>7</sup> The Constitution of 1962 declared Nepal as a Hindu Kingdom. The preceding constitutions followed the same until the adoption of the Interim Constitution in 2006.

<sup>8</sup> Socioeconomic transformation and constitutionalization of human rights as demanded and driven by socio-political movements were at the center of the constitution-making process.

<sup>9</sup> The three levels of governance are state, province and local. There are seven provinces and 753 local levels.

<sup>10</sup> Constitution of Nepal 2015, Preamble, art 50

### 3. Basis for Eco-Social Transformation in the Constitutional and Legal Framework of Nepal

The Constitution of Nepal integrates the principle of sustainability and the right to a healthy environment. The Preamble endorses sustainable peace, governance and development as the aims of the Constitution. More explicitly, the Constitution recognizes the right to a clean and healthy environment as non-derogable<sup>11</sup> and fundamental and includes the right to compensation from damages occurring from environmental degradation.<sup>12</sup>

Under policies relating to industry and commerce, equitable distribution from benefits of economic development is recognized.<sup>13</sup> In policies relating to agriculture and land reforms, ecological balance is taken into account as an important factor in proper use and redistribution of land.<sup>14</sup> Sustainability and environmental preservation are essential components mandated within socioeconomic development programs and strategies. Intergenerational equity, prioritizing local communities for equitable resource distribution, and mitigating environmental risks in development, including the polluter pays principle, precautionary principle, and prior informed consent, have been identified as central considerations in state policies concerning natural resources. These policies provide guidelines for the protection, promotion of sustainable use of natural resources.<sup>15</sup>

The government has made concerted efforts to translate these fundamental rights and aspirations into tangible legal and policy formulations, working towards their effective implementation (Asian Development Bank 2020). The 15th National Plan—the first development plan after the Constitution of 2015<sup>16</sup>—reflects these efforts. Its objective includes building the basis of prosperity through infrastructure development and economic growth, enhancing people’s well-being with a focus on quality of health, education and environment, and safeguarding national interests through socioeconomic transformation. It considers sustainability as central to the implementation of fundamental rights and directive principles and the achievement of overall national goals (National Planning Commission 2019, 2020). Social justice and equality have been traced as necessities to guarantee environmental security along with people’s happiness (National Planning Commission 2019).

Subsequent legislations have been formulated to devise mechanisms for the access and implementation of fundamental rights, particularly those requiring positive state action.<sup>17</sup> Further, Nepal adopted the National Population Policy in 2015, which emphasizes the concerns of

<sup>11</sup> Non-derogable rights are those which cannot be subjected to restriction even during situations of war or emergency. The *Committee on Civil Political Rights, General Comment No. 29* describes non-derogable as “being of peremptory nature of some fundamental rights ensured in treaty form in the Covenant. ... It can never become necessary to derogate from these rights during a state of emergency” (OHCHR 2001:para 11).

<sup>12</sup> Constitution of Nepal (2015), art. 30

<sup>13</sup> Constitution of Nepal (2015), art. 51(d) 5

<sup>14</sup> Constitution of Nepal (2015), art. 51 (e) 4

<sup>15</sup> Constitution of Nepal (2015), art. 51 (g)

<sup>16</sup> National Plans in Nepal, which commenced with the first Five-Year Plan (1956-1961), are systemic development planning processes outlining the vision and strategies for the country's overall development. Currently, Nepal is implementing its 15th National Plan.

<sup>17</sup> Rights necessitating positive action from the state include the right to food, health and education, where the state is required to establish conditions for the fulfillment of these rights. On the other hand, there are rights that demand negative action, such as preventing interference by either state or non-state actors for their realization.

sustainability in the context of population rise. The Disaster Risk Reduction and Management Act (2017), the National Policy for Disaster Risk Reduction (2018) and the Disaster Risk Reduction National Strategic Plan of Action (2018-2030) acknowledge the importance of sustainability in disaster management and incorporate measures to address heightened vulnerabilities of various social groups, including women, during disasters. The Environmental Protection Act (2019) is the first Nepali legislation to explicitly address the issue of climate change and outline state obligations in its mitigation. The National Forest Policy (2018) recognizes the role and contribution of Indigenous people in forest conservation. The National Climate Change Policy (2019) requires the integration of gender considerations into climate mitigation initiatives. This includes prioritizing women in budget allocations concerning the assurance of food security, nutrition and livelihoods through the adoption of climate-friendly agricultural systems. It also outlines diverse strategies for climate change mitigation and adaptation, such as the promotion of low-carbon energy and the development of climate-resilient infrastructures. The National Adaptation Plan (2018), among other issues, regards changing social values and norms as crucial for carving out transformative pathways for climate adaptation. The then Prime Minister also acknowledged that sustainable development is relevant to “avoid conflict, strengthen peace and achieve inclusive development with social justice” (National Planning Commission 2015:52).

While some changes show progress towards embracing this transformative vision in legislative practice, some gaps persist. Despite the implementation of the Disaster Risk and Reduction Management Act (2017) and National Policy for Disaster Risk Reduction (2018), recurring disasters like floods continue to affect the same communities each year and exacerbate their vulnerability (Nepali Times 2020). Further, the National Forest Policy (2018) in principle acknowledges the role of Indigenous people in conservation; however, the Forest Act (2019) is contested for not reflecting this in practice, as some provisions of the Forest Act entail a threat of forcible removal of Indigenous people from their ancestral land (Sherpa 2021). The process of federalization remains incomplete, with local, provincial and federal bodies still in the process of devolving power and clarifying managerial and budgetary jurisdictions, particularly regarding matters such as community forests and national parks. Consequently, there are delays and standstills in the implementation of environment related laws under the federal structures (Thakali et al. 2018).

#### **4. The Judiciary and Eco-Social Transformations**

Courts play a key role in the enforcement of rights and are regarded as important bodies in assuring environmental rule of law (UNEP 2019). Cases of environmental justice are crucial in gauging how sustainable relationships between people and nature are to be defined (Robinson 2018). As evidenced by a study from the United Nations Environment Programme (UNEP), adoption of environmental legislation is on the rise around the world, but implementation remains patchy (UNEP 2019). Disagreements about distributive justice or methods and pathways of development are inevitable when trying to implement newly guaranteed rights and values. When such disagreements are brought forth, the judiciary has the role of balancing claims and resolving such disagreements with required interpretation of constitutional values (Daly 2012). Several development projects have been challenged through public interest litigations at the Supreme Court of Nepal.

Five cases adjudicated after the new Constitution came into force have been selected for exploration in this paper. The issues recognized by these cases are of far-reaching importance in the protection of the environment and assurance of social justice. Article 30(3) of the Constitution of Nepal deems that the protection of the environment should not be seen as a preventive factor in formulating necessary legal provisions for a proper balance between environment and development; that is, it leaves interpretation of proper balance open ended. These cases involve interpretation of what proper balance between environment and development would mean in the context of Nepal. The paper draws its analysis from these cases, the constitutional provisions, and existing laws and policies.

#### 4.1 The need for judicial interventions

Institutional stability is a precursor for the efficient implementation of the Constitution. During periods of instability, the assurance of implementing rights provisions tends to waver. Traditionally, judiciaries were considered to be responsible only for resolving disputes. Now, they have a pivotal role in setting society on a sustainable trajectory of social and environmental transformation, including in strengthening environmental rule of law (IUCN 2016). UNEP governing councils' place rule of law as a key element in environmental matters, and SDG 16 emphasizes the judiciary's role in promoting environmental rule of law (UNEP 2013). The Asian Development Bank (2015) emphasizes that all other human rights are fundamentally connected to nature as it is the basis of human existence and survival. Consequently, when the judiciary addresses cases concerning various rights, it must consider their relationship with nature.<sup>18</sup>

The Constitution of Nepal designates the judiciary as the final interpreter of its provisions, vesting in it the authority to issue directives and orders to other state bodies in instances of inaction or wrongful action hindering the implementation of constitutionally guaranteed rights.<sup>19</sup> In response to government inefficiency, corruption, and instability issues such as the untimely dissolution of parliament by the prime minister, the lack of a majoritarian government,<sup>20</sup> and economic crises, citizens have come to rely on the judiciary as a means to realize rights. In such scenarios, the Court's role becomes even more crucial in upholding constitutional guarantees. Intervention by the Court has proven necessary and relevant for safeguarding the constitutional framework of rights. For example, in response to a writ petition filed during the pandemic,<sup>21</sup> the Supreme Court ordered the reduction of the high costs associated with government-mandated Covid-19 testing. The Court emphasized that these excessive testing fees impeded individuals' fundamental right to health. This case highlights the significance of upholding constitutional provisions to effectively protect people's rights.<sup>22</sup> Similarly, the judiciary has addressed a range of human and nature-related issues, including

<sup>18</sup> See also, *Oposa et al. v. Fulgencio S. Factoran, Jr. et al* (G.R. No. 101083). Justice Feliciano's opinion: "...the environment encompasses everything and almost everything that happens in a society can implicate environment."

<sup>19</sup> Constitution of Nepal (2015), art. 128

<sup>20</sup> Presently, Nepal functions as a coalition government between major political parties after the failure to secure a majority by any political party. Such coalition governments, while they can encourage cooperation, can create fractures between parties that can lead to frequent changes in government, leading to instability. Also, the appointment of heads of ministries and other state bodies becomes a matter of distribution of power among parties rather than the selection of the most qualified candidates.

<sup>21</sup> *Keshar Jung K.C. et al. v Ministry of health and population et al.* NKP 2077 (2020), volume 7, Decision no. 10547

<sup>22</sup> For further information on how the Supreme Court has addressed public interest petitions seeking judicial intervention to implement fundamental rights, see Bhattarai (2019).

pollution control,<sup>23</sup> public health, sustainable development with public participation,<sup>24</sup> and mitigation of the effects of climate change and natural disasters.<sup>25</sup> Thus, the judiciary is vital not only in protecting constitutional guarantees through the enforcement of constitutional values but also in advancing these values to facilitate meaningful transformations.

Further, the Court is also responsible for providing clarity on the meaning, intent and extent of constitutional provisions as the “final interpreter” of the Constitution as per Article 128(2) of the Constitution (Singh 2020). Concerning environmental issues, the court is responsible for interpreting what the right to the environment entails and how far it goes, clarifying terms like “proper balance” between the environment and development, and viewing the environment from a human rights approach (OHCHR 2018). Civil society has played a crucial role in bringing these matters to the attention of the Court. Historically, civil society of Nepal has played a pivotal role in catalyzing democratic change in the country (Saba and Kohler 2022), through the democratic tool of Public Interest Litigation (PIL).

It is thus evident that the Nepali judiciary is a key stakeholder in the process of institutionalizing and protecting eco-social transformations. The judiciary, through its necessary interventions via judgments, contributes to the realization of constitutional rights and the nuanced understanding of the human–nature relationships (Gill and Ramchandran 2021). This emphasizes the need for a broader role, acknowledging that the presence of rules alone may be inadequate to address societal changes. The judiciary, therefore, must render forward-looking judgments when addressing issues presented before it to effectively navigate evolving environmental issues. Selected examples of such decisions made by the judiciary of Nepal are discussed in the following section.

## 5. Judicial Interpretations on Concerns of Environment Protection and the Human–Nature Relationship

Nepal’s Constitution considers the Supreme Court of Nepal as the final authority to interpret the Constitution.<sup>26</sup> It also provides citizens the right to file petitions at the Supreme Court for legislative provisions that are in contradiction to the Constitution.<sup>27</sup> Along with this, the Supreme Court can exercise its extra-ordinary jurisdiction of judicial review in situations where enforcement of fundamental rights is required in the absence of remedies or ineffective settlement of constitutional or legal questions.<sup>28</sup> Actions that are in contradiction with the provisions of the Constitution are declared unconstitutional and are halted when brought to the Court via public interest litigation. Since independence of the judiciary is essential in achieving constitutional aims, the Supreme Court

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<sup>23</sup> *Nepal Plastic Industry Association v Office of Prime Minister*, NKP 2076 (2019), DN 10380; *Explore Nepal v Prime Minister and Council of Ministers* (2022)

<sup>24</sup> *Ram Chandra Simkhada v. Government of Nepal*, NKP 2076 (2019), DN 10204; *Bhagwati Pahari v PM and Office of Cabinet Secretariat and others*, N.K.P. 2075 (2018), DN 10086

<sup>25</sup> *Padam Bahadur Shrestha v. Prime Minister and Council of Ministers. NKP DN Amarnath Jha vs. Office of Prime Minister and Others*, NKP. 2078 (2021), DN 10743 (Mitigation of disaster and climate change)

<sup>26</sup> Constitution of Nepal (2015), art. 128

<sup>27</sup> Constitution of Nepal (2015), art. 133(1)

<sup>28</sup> Constitution of Nepal (2015), art. 46, 133(2)

has been granted this function, not only in the sense of authority but also as a responsibility to protect constitutional values.

Even before the promulgation of the present Constitution, the Supreme Court of Nepal had taken significant steps to address issues of environment that relate to the human-nature relationship. The judiciary, via its decisions, recognized that a clean and healthy environment is intrinsic and inherent to protecting the right to life.<sup>29</sup> It also recognized the government as a public trustee of natural resources for the benefit of its people, moving beyond the rhetoric of governments having authoritative control over the country's natural resources.<sup>30</sup> The Court has also extensively discussed the principles of intergenerational equity, sustainable development and polluter pays.<sup>31</sup> However, the democratic and constitutional bases for affecting these changes in practice were not present as clearly in the previous constitutions as they are in the present Constitution. The role of the judiciary and its approach to matters concerning human-nature interaction in light of the provisions of the present Constitution are elucidated through the cases discussed below.

## 5.1 Airport construction case

The Nepali government's mega project plan for the construction of the Nijgadh International Airport, envisioned as the largest airport in South Asia in terms of land coverage, reignited the longstanding debate on the balance between development and environmental sustainability. Discussions about building this airport began in the 1990s, but did not move forward until Prime Minister Pushpa Kamal Dahal initiated a feasibility study in 2008 (Lal 2019). In 2014, the government issued clearance of land and allocated a preliminary budget of NPR 500 million (USD 5 million) (Center for Aviation n.d.). The project would require 8049.79 hectares of land and the clearing of millions of trees, home to a large ecosystem consisting of several species of birds, mammals, fish and reptiles. In September 2019, around the time the government broke ground, a petition was filed in the Supreme Court raising questions about the environmental and social impacts of the project, as well as the necessity of constructing such a large airport. The petitioners claimed that this project would largely damage the ecosystems and biodiversity of the surrounding area, which included the Parsa National Park, and also intensify the possibility of flooding in the area by affecting two major rivers.

Before reaching the final decision, the Court issued an interim order asking the government to immediately halt the felling of trees until a decision was reached. However, the government employing a perplexing rationale continued the project. It argued that the wording of the order was intended solely to suspend the felling of trees and did not extend to halting any other activities, such as inviting bidders, related to the construction of the airport (Nepal Weekly 2022). The final judgment was reached in June 2022 where the Court quashed all government decisions regarding the construction of the Nijgadh International Airport. The Court determined that the Environmental Impact Assessment (EIA) submitted was not genuine. Evidence presented during the hearing

<sup>29</sup> *Surya Surya Prasad Dhungel v. Godawari Marble industries pvt.ltd* 2052 (1995)

<sup>30</sup> *Narayan Prasad Devkota v. Prime Minister and Prime Minister Office and Others*, NKP 2067 (2010), DN 8521

<sup>31</sup> *Prakash Mani Sharma and Others v. Prime Minister and Office of the Prime Minister and Others*, Case No 068-WO-0082; Adv. Narayan Devkota v. Prime Minister and the Council of Ministers NKP 20670 (2013), DN 9030

revealed that the EIA submitted was copied word-for-word from another construction project. It was submitted solely to fulfill procedural requirements to get the project approved without actually conducting a proper EIA, making the presented EIA moot. The Court ordered the nullification of this copied EIA and directed the drafting of a new authentic and factually accurate EIA. It further stated that the EIA should be made publicly available and accessible. Obtaining consent of local communities with the aid of independent and qualified experts was emphasized. The majority opinion of the bench specifically stated that, based on the current plan, the construction could not continue in the Nijgadh forest area and that further clear and proper assessment needed to be conducted to determine if Nijgadh was viable for airport construction. To this end, the Court noted that development activities generally do affect the environment, but every possible attempt should be made to find alternatives to minimize such effects, especially those that are degrading and damaging to the environment. The Court also added that protecting animals and plants is not just a voluntary subject of human interest but also an aspect of the rights of nature. Recognizing the principle of intergenerational equity, the Court stated that it is the duty of the present generation to hand over the ecological system with a healthy and clean environment to future generations.<sup>32</sup>

## 5.2 Case concerning the protection of the Chure range

A significant intervention was made by the Court in the issue of excavation of the Chure/Siwalik range to extract riverine materials for export. The Chure range consists of a series of connected mountains extending to thirty-six districts of Nepal (13 percent of the total land area),<sup>33</sup> from the plainlands in the south to the Himalayas in the north. The area is home to extensive biodiversity and has numerous protected areas within it. It is an ecologically vulnerable region and is under constant threat of erosion that puts the ecosystem as well as the human populations living in and around the Chure region at risk (Department of Forest Research and Survey 2014). The government had initiated the President Chure Terai Madesh Conservation Area Program in 2010, which is still operative (Bishwokarma et al. 2016). However, opposed to this, the budget draft of the fiscal year 2021/22 proposed the excavation of the range for financial purposes, prompting the filing of several petitions in the Supreme Court. While the hearings of the case were ongoing and before the decision was rendered, the provision for excavation of Chure had been removed from the budget draft. This removal was a response to backlash and protests from environmental defenders and the general public, both online and in-person. Because of this, the Court did not have to issue orders on this matter specifically. However, noticing the need to prevent such plans and decisions by the government in the future and to preserve the Chure range from major loss of biodiversity, the Court made some necessary and relevant observations. It deemed that state agencies in any circumstances cannot be the cause of environmental destruction of the country. Acknowledging the sensitivity and seriousness of the issue at hand, it declared widespread environmental harm caused by actions such as the excavation of Chure as “ecocide.”<sup>34</sup> The Court stated that in any condition, including that of the need of economic development, a situation of such widespread environmental damage must be avoided (Sanjel 2023). Noting that inaccurate EIAs are at the heart of such ecologically destructive

<sup>32</sup> *Prakash Mani Sharma and others versus Office of PM et al.*, case no 076-WF-0006

<sup>33</sup> Nepal has seventy-seven districts.

<sup>34</sup> The Independent Expert Panel for the Legal Definition of Ecocide has defined ecocide as “unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts” (Stop Ecocide Foundation 2021).

initiatives, the Court emphasized the need for EIAs to be conducted diligently and fulfill all required procedures, and not only as a legal formality. It indicated that legal actions could be taken against those intentionally preparing incomplete, copied or inaccurate EIAs. Additionally, it also affirmed that the principle of environmentally sustainable development is the “most fundamental principle” from among the directive principles of the Nepali Constitution.<sup>35</sup>

### 5.3 Protection of humans and the environment from natural disasters

In 2017, a petition was filed demanding preventive and restorative action from the government for families affected by yearly floods caused by monsoon rains in the plainlands (Madhesh/Terai). The petition claimed that floods had become more and more unpredictable in recent years and were causing massive loss of life and property each year. The petitioner demanded both immediate relief and sustainable, long-term solutions from the government to protect lives and property in the plainlands of the Terai region. The Supreme Court in this matter of natural disaster (flood) identified the need to address climate change as one of the causative factors of disasters. It acknowledged that disaster risk management should be considered in conjunction with climate change adaptation. The Court also noted that when the government fails to deliver its constitutional duty to protect the rights of disaster affected people and communities, the Court has the duty to prevent violation of fundamental rights. The government was reminded that constitutional rights must be guaranteed in practice. The Court further observed that the fundamental rights in the Constitution could only be enjoyed when sustainable development is applied in all programmes and policies of the state in a coherent manner.

This order provided for both immediate and long-term solutions to address this continual problem of monsoon floods in the plainlands of Nepal. It was ordered that adequate relief packages be provided to the victims of floods for that year for their recovery.<sup>36</sup> As a long-term solution, it ordered the construction of dams or other mechanisms where required. The Court also provided directive orders to create and implement a national master plan on disaster management and ensure sustainable and resilient housing to disaster victims as guaranteed by the Constitution. Further, the Court ordered the government to ensure that relevant and reliable real-time data be made accessible to local people. Finally, agriculture’s relation to natural disasters and climate change was also noted and the government was ordered to address the impact of climate change on farmers and provide required protection and compensation.<sup>37</sup>

### 5.4 National Park protection case

Another relevant case is that of the Thori-Bharatpur roadway, which in 2008 the government proposed to build through the Chitwan National Park (the first national park of Nepal). This park is home to many species of wildlife and biodiversity, including the rare one-horned rhino. The petitioner organization, Consumer Rights Nepal, brought the claim to court when issues about the

<sup>35</sup> *Sailendra Ambedkar et al. v Office of the Prime Minister et al*, Case no: 077-WC-099

<sup>36</sup> The United Nations Office for Disaster Risk Reduction (UNDRR) defines post-disaster recovery as “the restoring or improving of livelihoods and health, as well as economic, physical, social, cultural and environmental assets, systems and activities, of a disaster-affected community or society” (n.d.).

<sup>37</sup> *Amarnath Jha v. Office of the Prime Minister et al.* NKP 2022 (2078), DN 10743

probable damage of this construction came to light in 2017. It was claimed that this project was being developed without conducting any consultations with the local communities and did not comply with the requirements to conduct an EIA and an Initial Environmental Examination (IEE). The petitioner claimed that constructing roads in this way would have serious impacts on the unique biodiversity of the national park. Here, the Court ordered that the work of design and construction of the road be halted until there had been consultation with relevant stakeholders, including UNESCO, and agreement had been reached. In delivering the order, the Court observed that the government is not the owner of public property and natural resources, rather a trustee. Thus, natural resources are to be used considering the interests of not only the present but also future generations.<sup>38</sup>

## 5.5 Regulation of the use of plastic

In April 2015, The Ministry of Science, Technology, and Environment put in place a policy banning the import, storage, distribution and use of plastic bags with less than 40-micron thickness in the Kathmandu Valley. As a part of the implementation of the government's 2018 Nepal Clean Environment Mega Campaign, the Ministry of Forests and Environment devised an Action Plan to regulate plastic bags nationwide, banning only those with a thickness of less than 30 microns as opposed to the existing regulation of banning up to 40-microns. In response to this, the NGO Explore Nepal filed a petition demanding to quash the change in policy regarding use of plastics within the Kathmandu Valley. The Court in its decision upheld the claim of the petitioner by reversing the decision of the executive body to change the regulated plastic size from 40 microns to 30 microns in the Kathmandu valley. In rendering the judgement, the Court delved into the effects of plastic as a non-biodegradable component, such as the reduction of soil fertility, clogging of water sources, obstruction of drainage, etc. The judgement also talked of the impact of single use plastics, pointing to the very dangerous effects they have on human health and how they degrade marine and other ecosystems. An important part of this judgment is that it identified the effects unmanaged plastic use has on vulnerable communities. Marginalized communities and farmers who rely on land and water resources for livelihoods, along with children and women, are disproportionately affected by the unmanaged use of plastic. It thus related this problem of plastic management with human rights and environmental justice. The judgment also cited the principle of "*in dubio pro natura*," that is, when in doubt about a problem concerning the environment, decision should be taken in way that strongly protects/favors the environment. Further, it stated that such a change in regulation would be counterproductive to the environment, biodiversity and human health and thus would be against the notion of environmental rule of law.<sup>39</sup>

## 6. Judicial Outlook

These cases delivered after the promulgation of the present Constitution are indicative of the judicial outlook that shaped the Court's interpretations of constitutional and legal provisions concerning the environment. Firstly, a few facts were similar in most of these cases. Although laws require EIAs

<sup>38</sup> *Ram Chandra Simkhada v. Government of Nepal et al.* NKP 2019, (2076), DN 10204

<sup>39</sup> *The Explore Nepal v. Nepal Government et al.*, Case no 075-WO-0072 (Decision Date: 2.05. 2022)

and IEEs, they have been largely overlooked by the government in development planning and implementation processes, necessitating an intervention by the judiciary. The public disclosure of EIAs, their open accessibility, consultation with experts and stakeholders, and scientific evidence are under threat of being undermined. Most cases discussed above have had EIAs that are incomplete, inaccurate or copied from other EIAs. Without proper EIA/IEEs, determining the effects such a project could have on the local environment is not possible. Inclusion of all stakeholders in the process requires accessibility of information so that they can fully participate in legal and policy processes. The Court had to intervene even in a matter that is clearly mandated by law. Further, sometimes the approach of the authorities treats the state as the “owner” of natural resources, whereas according to the public trust doctrine,<sup>40</sup> which is often cited by the Court, the state should be regarded as the “trustee” of nature and natural resources. The judiciary also highlighted that understanding and addressing inequality from an intersectional lens is essential in the case concerning regulation of plastics.<sup>41</sup>

Next, the Court in these cases has strongly put forth the view that development objectives do not justify environmental damage. Sustainability is understood to be essential for intergenerational equity providing for the preservation of resources for the present and future, and in the interest of descendants.<sup>42</sup> This extends the protection to cultural rights in association with natural resources. The Court was also explicit in noting that just as the right to life is the most fundamental right that gives basis to all other rights, sustainable development is the “most fundamental” principle from among the principles of state policies stipulated in Article 51 of the Nepali Constitution.<sup>43</sup> It can also be noted that in the judicial view, rights can only be regarded as rights when they can be realized. The cases also show that the judiciary holds natural disasters and climate change to be intrinsically connected to the welfare and livelihoods of all people. Thus, legal and policy coherence are important in addressing possible vulnerabilities efficiently.

## 7. Implementation Concerns and Ways Forward

The judiciary is a key actor in institutionalizing values and redefined meanings of transformation embedded in the Constitution. The role it has played in materializing these constitutional values, as discussed through some key judicial decisions in the previous sections, demonstrates this. The cases discussed showcase the pivotal role of the Supreme Court in safeguarding constitutional guarantees and fostering socioeconomic transformation. It also protects and fosters the human–nature relationship as embedded in the Constitution. This role came primarily in the form of either enforcing compliance or extending the scope of compliance to advance the already established constitutional values. Judicial decisions, although a crucial step in the process of realizing rights, are not an end in themselves. Realization of rights, and their continued protection and enjoyment, are dependent upon many non-judicial factors. For the realization of guaranteed constitutional rights, the legislature must frame coherent laws. In turn, policies made by the executive have to be in

<sup>40</sup> The public trust doctrine prohibits governments from arbitrarily using natural resources, such as transferring them to private enterprises, for economic gain and ensures the public’s access to natural resources.

<sup>41</sup> For more on intersecting inequalities, see UNRISD (2022).

<sup>42</sup> *Ram Chandra Simkhada v. Government of Nepal*, NKP 2019, (2076) DN 10204.

<sup>43</sup> *Sailendra Ambedkar et al. v Office of the Prime Minister et al*, Case no 077-WC-099 (Decision Date: 20.04.2022)

harmony with them. Authorities that are a part of implementation processes, such as those designated to conduct the EIAs/IEEs in consultation with local offices and communities, must work efficaciously and independently, avoiding any intentional or negligent misdoings.

The ambit of the judiciary is limited by what has been brought to the Court for adjudication. Thus, civil society plays a crucial role in bringing relevant, required and meaningful concerns needing intervention. Political will to translate constitutional values into actual reality, balance of power between the three branches of government, and civic awareness all play a crucial role in implementing judicial decisions. Regarding the government and its attempt to put constitutional values into practice, the larger framework of democracy and rule of law are regularly threatened by instances of instability, such as untimely dissolution of parliament by the then Prime Minister (Sharma 2021).<sup>44</sup> Further, concerning environmental protection, the government's inclination towards framing the debate as development versus environment, rather than embracing a discourse of sustainable development as provided by Article 30 of the Constitution, which emphasizes the "proper balance" of ecological concerns and development, has hindered progress in many instances. For example, despite court orders, scientific evidence, and provisions for sustainable development outlined in the Constitution, the government persists in pursuing mega projects that have significant impacts on the environment.

The judiciary's inefficiency poses yet another obstacle to the fulfillment of constitutionally mandated rights and the protection of the environment as a right within the context of the human–nature relationship. The Nepali Supreme Court faced a significant challenge when it remained without leadership for almost a year in 2022–23. The appointment of a new Chief Justice was delayed due to political instability and indifference. In another incident, in 2022 Supreme Court judges abstained from adjudicating issues as a form of protest against a former Chief Justice embroiled in controversies and facing an impeachment motion in the Parliament of Nepal. Instances like these significantly compromise the independence of the judiciary. When the functioning of the judiciary is hindered, leading to delays and disruptions in its operations, it becomes a major obstacle in achieving constitutional guarantees.

Despite the judgments focusing on environmental well-being and protection of natural resources, judgements alone are not enough. They must be followed by thorough implementation by concerned state bodies. With the executive's decisions bypassing judicial orders in many circumstances and the judiciary being caught in political matters such as parliament dissolution, internal disputes, and situations of instability, public perception towards the judiciary has dwindled at times. For effective rule of law, the public's trust in the justice system is crucial. On this note, a few factors can be inferred as identifiable problems in the implementation process of judicial decisions and, in turn, the constitutional values reflected by them:

1. Petitions that reach the Supreme Court are normally post-fact. Issues concerning violation of right are brought only after a certain degree of infringement of right has occurred. In such cases,

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<sup>44</sup> Two attempts were made for the dissolution of parliament, one on 20 December 2020 and the other on 22 May 2021, by the then Prime Minister and a call was made for new elections by the President.

the breach of rights, often attributable to the actions or inactions of the state, serves as the primary factual context, preceding the actual realization of those rights. In this situation, the breach becomes a fact and guaranteed rights are viewed rather as remedies and not as continual protection in all conditions, as the Constitution aspires.

2. The non-functioning or inefficient functioning of institutional structures is another significant problem. The fact that incomplete and false EIAs/IEEs have been a problem in all discussed cases is evidence of the inefficiency and sheer negligence of responsible authorities. Additionally, the instability in governance affects the realization of rights and values of the Constitution into practice.
3. Nature and environmental protection are not understood by the state bodies to be intrinsically interlinked with other guaranteed constitutional rights. The judiciary has had to intervene and remind the government of how issues related to the environment are undeniably associated with welfare, livelihood, equality and survival of people, and the nation at large. Due to this lack of understanding, potential legal and policy incoherence arises, leading to implementation problems. Further, issues of environmental concerns are distanced from the larger question of inequality and social justice.
4. Lack of consultation with stakeholders such as concerned communities, local populations, civil society, and experts allows a lot of room for errors. This also infringes upon the rights of concerned stakeholders, especially local communities, as they cannot participate and make decisions on matters that affect them. Effective participation of local communities depends on both availability and accessibility to information (this includes scientific evidence and real-time data). Availability of relevant information on its own does not mean that it is truly accessible. Accessibility also requires relevant information to be conveyed in a way that its meaning is understandable/discernable by local communities and stakeholders. Without this, inclusion or participation in conservation efforts cannot take place in a meaningful way.
5. The enduring debate between infrastructure development and sustainability persists, with a common misconception that environmental preservation and development are mutually exclusive. This idea poses a threat even to scientific evidence supporting sustainable approaches. This misconception is affecting both realms, as development initiatives often commence without adequate consideration for the environment, resulting in harm. It is only later when issues are brought to court through public interest litigation, as exemplified in the case of Nijgadh, that orders to halt or modify projects based on environmental requirements are issued. Such delayed interventions then lead to a wastage of resources invested in the initial stages of the project.
6. Instability in governance is another concern. Nepal has faced ongoing political instability in its recent history. The constitutional transformation sought stability in terms of materializing its socio-economic transformations. Lack of stability in governance threatens the translation of constitutional aspirations into practice, as initiatives taken by one government are not followed when it abruptly changes. Many initiatives are thus short-lived, or they stagnate.

## 8. Conclusion

For materializing eco-social transformations in Nepal, the translation of constitutional guarantees into policy practices is imperative. To this end, the judiciary is a key actor. Stable interpretations of constitutional rights and aspirations are derived from the judiciary. However, such interpretations are only a part of the realization of guaranteed rights. Rights can only be considered as rights when realized in practice and protected under all conditions as envisioned by the Constitution. Rights, including the right to a clean and healthy environment, are not to be protected only in situations of breach but rather continually. Further, an outlook towards viewing nature only as a device of human interest should shift. It is crucial to explore the emerging concept that perceives nature as an independent right holder, not solely in connection with the rights of individuals or the state that claims ownership over it. An understanding that conservation and environmental protection is intrinsically linked with human survival, livelihood and welfare, along with issues of equality and social justice, should be institutionalized in governance mechanisms. Laws and policies need to be formed considering this objective of human–nature harmony. Development approaches running contrary to scientific evidence, genuine public interest and rights of local communities should be discarded. Judicial and non-judicial entities will have to play a reinforcing role in translating constitutional guarantees and values into practice. Effective realization of rights is not dependent on judicial decisions alone, but on concerted efforts across public institutions along with civil society and the private sector. Collaboration and synergy between them is important to collectively ensure the administrative and financial resources necessary for implementation of laws, policies and judicial decisions. A comprehensive approach that integrates legal frameworks with robust institutional cooperation, resource mobilization and change in mindset is essential for meaningful progress in realizing rights.

## References

- Asian Development Bank. 2015. *Proceedings of the Fourth South Asia Judicial Roundtable on Environmental Justice*. Manila: Asian Development Bank.
- Asian Development Bank. 2020. *Country Integrated Diagnostic on Environment and Natural Resources for Nepal*. Manila: Asian Development Bank.
- Bhattarai, Ananda M. 2019. "Promoting Welfare and Social Justice Through Constitutional Mechanisms." *Nepal Bar Council Law Journal*, 1:19–27.
- Bishwokarma, Dipak, Sudeep Jana Thing and Naya Sharma Paudel. 2016. "Political Ecology of the Chure Region in Nepal." *Journal of Forest and Livelihood*, 14(1):84–96.
- Center for Aviation. N.d. *Nijgadh International Airport*. Sidney: Center for Aviation. Accessed 27 September 2023. <https://centreforaviation.com/data/profiles/newairports/nijgadh-international-airport>.
- Daly, Erin. 2012. "Constitutional Protection for Environmental Right: The Benefits of Environmental Process." *International Journal of Peace Studies* 17(2):71–80.
- Department of Forest Research and Survey. 2014. *Churia Forests of Nepal*. Kathmandu: Department of Forest Research and Survey.
- Ellingson, Ter. 1991. "The Nepal Constitution of 1990: Preliminary Considerations." *Himalayan Research Bulletin*, 11(1).
- Gill, Gitanjali N. and Gopichandran Ramchandran. 2021. "Sustainability Transformations, Environmental Rule of Law and the Indian Judiciary: Connecting the Dots through Climate Change Litigation." *Environmental Law Review*, 23(3):228–247.
- INSEC (Informal Sector Service Centre). 2010. "Binda Pandey, The Chairperson of the Constituent Assembly Committee on Fundamental Rights and Directive Principles." Interview. *INSEC Online*, 8 June. Kathmandu: INSEC. <http://inseconline.org/en/interview/binda-pandeythe-chairperson-of-the-constituent-assembly-committee-on-fundamental-rights-and-directive-principles/>.
- <https://www.ohchr.org/sites/default/files/FrameworkPrinciplesUserFriendlyVersion.pdf>, accessed in May 6 2024.
- Lal, Abha. 2019. "Nijgadh Airport: What is proposed and why environmental analysts are so worried." *The Record*, 16 July. <https://www.recordnepal.com/nijgadh-airport-what-is-proposed-and-why-environmental-analysts-are-so-worried>.
- National Planning Commission. 2015. *Envisioning Nepal 2030*. Kathmandu: Government of Nepal and Asian Development Bank.
- National Planning Commission. 2019. *The Fifteenth Plan (Fiscal Year 2019/20 – 2023/24)*. Kathmandu: Government of Nepal
- National Planning Commission. 2020. *National Human Development Report*. Kathmandu: Government of Nepal
- Nembang, Subash Chandra. 2020. "From Constitution Writing to Impementing Federalism." In *Nepal's Constitution and Federalism: Vision and Implementation*, edited by Dil Kumari Rawal Thapa and Ram Guragain, 1–9. Kathmandu: National Forum of Parliamentarians on Population and Development.
- Nepali Times. 2020. "Deadly monsoon in Nepal turns deadlier." *Nepali Times*, 20 September. <https://nepalitimes.com/here-now/deadly-monsoon-in-nepal-turns-deadlier>.
- OHCHR (Office of the United Nations High Commissioner for Human Rights). *CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency*. CCPR/C/21/Rev.1/Add.11, para 11. Geneva: OHCHR.
- OHCHR (Office of the United Nations High Commissioner for Human Rights). 2018. *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*. A/HRC/37/59. Geneva: OHCHR.

- Pradhan, Rajendra Prasad. 2007. "Negotiating Multiculturalism in Nepal: Law, Hegemony, Contestation and Paradox." Paper Presented at the Conference on Constitutionalism and Diversity, Kathmandu, August 22–24.
- Robinson, Nicholas A. 2018. "The Nature of Courts." In *Courts and the Environment*, edited by Christina Voigt and Zen Makuch, 2–34. Cheltenham: Edward Elgar Publishing.
- Saba, Alina and Gabriele Kohler. 2022. "Towards an Eco-Social Contract in Nepal: The Role of Rights-Based Civil Society Activism." *Issue Brief 13*. Geneva: United Nations Research Institute for Social Development.
- Sanjel, Shreya. 2023. *Judgment of the Supreme Court of Nepal to Protect the Chure range: Widespread Environmental Destruction Deemed Ecocide*. Oxford Human Rights Hub, 25 January. <https://ohrh.law.ox.ac.uk/judgment-of-the-supreme-court-of-nepal-to-protect-the-chure-range-widespread-environmental-destruction-deemed-ecocide/>.
- Sharma, Gopal. 2021. "Nepal's Supreme Court reinstates parliament; orders new PM to be appointed." *Reuters*, 12 July 12. <https://www.reuters.com/world/asia-pacific/nepals-supreme-court-reinstates-parliament-orders-new-pm-be-appointed-2021-07-12/#:~:text=Nepal's%20Supreme%20Court%20reinstates%20parliament%3B%20orders%20new%20PM%20to%20be%20appointed,-By%20Gopal%20Sharma&text>.
- Sherpa, Pasang Dolma. 2021. "Indigenous People's Customary Governance for Sustainable Management of Natural Resources and Biodiversity." Kathmandu: Center for Indigenous People's Research and Development.
- Singh, Sabrina. 2020. "Realizing Economic and Social Rights in Nepal: The Impact of a Progressive Constitution and an Experimental Supreme Court." *Harvard Human Rights Law Journal*, 33:275–310.
- Stop Ecocide Foundation. 2021. "Independent Expert Panel for the Legal Definition of Ecocide: Commentary and Core Text." Amsterdam: Stop Ecocide Foundation.
- Thakali, Shailendra, Brian Peniston, Govinda Basnet and Mahendra Shrestha. 2018. *Conservation and Prosperity in New Federal Nepal: Opportunities and Challenges*. San Francisco: The Asia Foundation.
- Tushnet, Mark. 2015. *Unstable Constitutionalism: Law and Politics in South Asia*. Cambridge: Cambridge University Press.
- UNDRR (United Nations Office for Disaster Risk Reduction). N.d. "Disaster Risk Reduction Terminology." Geneva: UNDRR. <https://www.undrr.org/terminology/recovery>.
- UNEP (United Nations Environment Programme). 2013. *Proceedings of the Governing Council/Global Ministerial Environment Forum at its first universal session*. UNEP/GC.27/17, 18–22 February. Nairobi: UNEP.
- UNEP (United Nations Environment Programme). 2019. *Environmental Rule of Law: First Global Report*. Nairobi: UNEP.
- UNRISD (United Nations Research Institute for Social Development). 2022. *Crises of Inequality: Shifting Power for a New Eco-Social Contract*. Geneva: UNRISD.
- World Bank. N.d. *Poverty and Inequality Platform*. Washington, DC: World Bank. Accessed 6 May 2024. <http://povertydata.worldbank.org/poverty/>.
- IUCN (International Union for Conservation of Nature). 2016. *IUCN World Declaration on the Environmental Rule of Law*. Gland: IUCN.