



Judicial Trend in Nepalese Law of Contract: Current Perspective

Satya Narayan Kalika

Lecturer, Shanker Dev Campus

Tribhuvan University, Nepal

Email: snkalika@hotmail.com

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Abstract

This paper analyzes judicial decisions established by the Supreme Court of Nepal in relation to contractual disputes between 2023 and 2074 B.S. The earliest case of Dhruba Shumsher v. Nabaraj and the latest case of Tularatna Bajracharya v. Chetsundar Shrestha's legal heir Tara Shrestha Patrabansha are selected as basic information. The case laws related to contract law during the given period of more than five decades of modern Nepal have been collected, documented, selected and analyzed to understand the development trends of Nepalese law of contract. It helps us get a better and holistic current perspective on the existing and emerging issues and trends of Nepalese law of contract and guess the future voyage of this sector.

1. INTRODUCTION

A contract is a private law created, performed and discharged by the agreed parties. It is enforceable by courts of law on the basis of the law of contract when the promisor party fails to fulfill the promise. 'It is an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law' (Garner, 2009).

The legal obligations created by a contract between the parties are determined by the law of the contract of the land. The law of contract is made of statutes, judicial decisions, customs, international commercial conventions, and legal principles developed in common law. Thus, the judicial decision established by Supreme Court is one of the major sources of Nepalese law of contract.

This paper analyses the judicial decisions established by the Supreme Court of Nepal over five decades in relation to references and verdicts of the contractual dispute by the judiciary. The selected cases during the given period have been analyzed to understand the development trends of the modern law of contract. It helps us get a better and holistic

current perspective on the existing and emerging issues and trends of Nepalese law of contract and guess the future voyage of this sector.

An agreement without enforceability by the court cannot be regarded as private law. The role of the judiciary in laying down rules in the adjudication of contractual cases is of pivotal importance for the holistic understanding of the entire sector and tracing the development of Nepalese contract law. As we trace the trends of judicial decisions of the contract cases during the study period, the researcher can discern how the judgements were delivered by the courts and have altered the ambit of the law and how changes in the law have been affected by the cases relating to this sector. Concurrently, it reveals how Nepalese contract law has emerged, developed and expanded and widened the ambit of the court so that all the business community and the general citizens are impressed.

This study reveals that no work on this issue has been published yet. This type of work may help the learners of business law find the trends of development of Nepalese contract law through the contribution of judicial decisions.

During the given time of five decades of the study, most of the cases relating to the contract have been dispensed by courts on the basis of globally recognized legal principles and legislation of the country. This period has witnessed two specific laws of contract- the Act Relating to Contract of 2023 and the Contract Act of 2056.

Now, Nepalese law of contract has been managed in Part V of the *Muluki Civil Code of 2074* by repealing the erstwhile Contract Act. During the five decades, some important developments have led to significant changes in the rights of aggrieved parties and the expansion of private law. The judicial decisions have been made of pivotal importance to the existence and expansion of contract law and contractual relations in the Nepalese business community. Here is the question raised in this context- What are the major changes? Moreover, what development trends of judicial decisions are found in the Nepalese law of contract?

The objective of this study is to analyze selected major judicial decisions of the Supreme Court of Nepal relating to contracts to understand the general direction of Nepalese law of contract development trends.

2. RESEARCH METHODS

Since it is legal research, it is a doctrinal study. It is mainly based on primary sources of information from judicial decisions. The researcher collected contractual case laws dispensed by the Supreme Court of Nepal, selected major cases purposively, and categorized and analyzed them. As well as the legal frameworks provided in Constitution, Acts and Rules are used as the primary sources of information, and the secondary sources of information are collected from encyclopedias, books, journal articles, reports and commentaries published.

As a trend study, the period between 2023 B.S. and 2074 B.S. is set as two different points of time determined on the basis of development phases and the nature of legal frameworks. The judicial decisions established by Supreme Court over the five decades are discussed in this brief venture. The earliest case of *Dhruba Shumsher V. Nabaraj* and the latest case of *Tularatna Bajracharya V. Chetsundar Shrestha's legal heir Tara Shrestha Patrabansha* are selected as basic information. The selected cases during the given period have been analyzed to understand the development trends of modern contract law. This paper studies the nature and developmental changes in different stages of development in Nepalese contract law over time. This study is designed to see a pattern of past changes to understand the trends and development at an aggregate level. Attempts have been made to find a pattern to detect changes and shifts in the same event over time.

3. RESULTS AND DISCUSSION

Historical Development of Legal Frameworks of Nepalese Law of Contract

The contract between two or more parties is regulated by the Law of Contract of the land and is enforceable by a court of law. Currently, Nepalese law of contract and obligation is provided in Part-V of the Muluki Civil Code 2074 B.S., which came into force from Asoj 30 of 2074, after the repellent of the erstwhile Contract Act of 2056.

The historical background of Nepalese law of contract can be categorized into two main phases- before 2023 B.S. and after 2023 B.S. to till date.

First Phase- Before 2023 B.S.

The early history of Nepalese law is found in traditional attire based on *dharmashastra* and *Smritis*, the Hindu religious texts.

Narad Smriti, one of the major sources of *Manab Nyayashastra* issued by Jayasthiti Malla (1437-1452 BS; 1380-1395AD), the King of Bhaktapur as legislative installations. The modern legal history was led by Gorkha king Prithvi Narayan Shah (1799-1831 B.S.). Though he spent most of his reign in the unification of more than 50 small states of Nepal, he could contribute to the Nepalese legal system by establishing the court in every district with the human resource management of *Ditthas*, *Bicharis*, *Pundits*, and other employees.

Muluki Ain, whose initial nomenclature was 'Aain' and was later changed to 'Ain', with an even later addition of the term *Muluki* – the most popular law of Nepal codified by *Kaushal* at the time of King Surendra Bikram Shah and Prime Minister Junga Bahadur Rana introduced on Poush 23, 1910 B.S. *Kaushal* was the law commission comprised of the contemporary pundits and high ranking position-holders, formed by Junga Bahadur Rana to draft the *Aain*, that had incorporated all types of laws, civil and criminal, and as well as substantive and procedural. It became very popular whereas, and three special enactments were done: *Gaddiko Aain* (law of throne), *Rajyako Aain* (law of state affairs), and *Jangiko Aain* (law of armed forces) (Khatiwada et al., 2021). The preamble of the law expected the application of equal punishment for an equal offense without discrimination. A renowned Senior Advocate & lawmaker Radheshyam Adhikari says, 'Before 1910 B.S., there were *Rukkas*, *Sanads*, *Hukum Pramangis*, *Lalmohars*, etc.; and these orders were the basis of governance' (Adhikari, 2075). Then this law became a milestone in the governance of Nepalese society. A renowned senior journalist Bhairav Risal writes- though it was not mentioned, the draft of *Muluki Ain* had been based on *Dharmashastras*, *Nitishastras*, *Manusmriti*, *Yagyavalkya smriti*. In the course of making and repealing social laws, they keep aware of whether it is against *Dharmasastras*. (Risal, 2078).

When *Naya Muluki Ain* of 2020 B.S. came into force from Asoj 6, 2021 B.S. and substituted the erstwhile *Muluki Ain* of 1910 B.S, it had provided some legal provisions relating to contract, e.g., the provision of *Naso Dharot* (contract of Bailment and Pledge) and No.37 of *Lenden Byabeharko* (general transaction). This provision made a significant contribution to contract law at that time.

Second Phase- After 2023 BS - 2074 B.S.

Before the enactment of the Act Relating to Contract, 2023, the provisions in the Chapters of 'General Transaction' and 'Bailment and Pledge' of the *Muluki Ain* 2020 were the law of contract in Nepal. Besides, the erstwhile Civil Code of 1910 B.S. at the time of Junga Bahadur Rana, the first Rana Prime minister of Nepal, also had managed some concepts of contract like bailment and pledge as a part of customary law development.

(a) *The Act Relating to Contract 2023*: During the two general Codes framed and prevailed in the name of *Muluki Ain* of 1910 BS and 2020 B.S., respectively. Business transactions of this period were governed under these two general codes, 1910 BS and 2020 B.S., unless the Contract Act, 2023 B.S. had been enacted as a special statute (Poudel, 2019).

The then commercial sector expressed happiness after enforcing this Act relating to Contract 2023.

The law relating to the contract of 2023 B.S. was the first separate contract law and was a landmark effort in this sector. It was enacted on Poush 1, 2023 B.S. (16th December 1966 A.D.) in the name of the 'Act Relating to Contract 2023 B.S. It contains 19 sections altogether.

The relationships of this Act with other current Nepal laws were governed by sections 17 and 18. The last, section 19, repeals certain laws, but an express proviso saved the Government Contracts (Arrangements) Act, 2020 B.S. Thus, this Act seems in a simple form and tried to fulfill the need of the time in separate legislation.

(b) The Contract Act of 2056 BS: This Contract Act came into force to fulfil the demand of the then open market policy followed by the Government of Nepal after the restoration of the multiparty system in 2048 and repealed the erstwhile Act of 2023. The Act had 90 sections managed within 13 chapters.

After the restoration of the multiparty democratic system in Nepal, there was an impressive environment to address the growing demands of industrial and commercial sectors on the favorable economic environment which was created by the then open market policy. As a result, a new Contract Act 2056 came into force from Ashadh 14 of 2057 after repealing the erstwhile Act relating to Contract of 2023. The Contract Act of 2056 has made provisions to address the novel aspects of contract law developed in advanced countries to fulfill the demand of industry and Commerce. Section 2 (a) defines four terms- Contract, Offer, Acceptance and Consideration. 'Contract' was defined as "an agreement enforceable by law concluded between two or more parties for performing or not performing any act." This Act has 90 sections and 13 Chapters.

(C) The Law Relating to Contract and Obligation of Muluki Civil Code 2074 BS: The law of contract and obligations are provided in Part-V of Muluki Civil Code, 2074 and repealed the erstwhile contract Act of 2056. This law was managed under general law with additional provisions, such as *Jyala Majduri*. The Law of Contract is the basis to regulate all the contracts between two or more parties. Part-V of the Muluki Civil Code 2074 has incorporated the general law of contract of Nepal, which came into force from Asoj 30 of 2074, after repealing the Contract Act, 2056 of Nepal, a separate law of contract of the land after contract Act of 2023.

'Where an agreement is concluded between two or more parties to do or abstain from doing any act enforceable by law, a contract shall be deemed to be made (Section 493(a) of MCC, 2074). The obligations created and maintained by contract are treated under civil law (Section 505 of MCC, 2074).

(d) Judicial Decisions: Contract law is one of the important parts of business law. The law of contract of Nepal is the composition of statutory laws, globally recognized uniform principles and precedents of contract law set by the Supreme Court of Nepal. An important source of Nepalese law of contract judicial decision emanates from the practice of law.

Precedent is the making of law by a court in recognizing and applying new rules while administering justice (Garner, 2009). A precedent is a judicial decision that contains in itself a legal principle. Such a principle is created in the course of a verdict that fulfills the vacuum of law. Such principles are regarded as the law for areas of the same nature and are binding to the subordinate courts (Kalika, S. N. (2015).

The Constitution of Nepal provides that all must abide by any interpretation of the Constitution or a law made by or any legal principle laid down by the Supreme Court when trying a lawsuit (Constitution of Nepal, Article 128 (4)). This provision provides the authority and binding characteristic of the judicial decisions established by the Supreme Court of Nepal. Similar provisions of binding precedent had been incorporated by the

earlier constitutions of Nepal, too, notably in Article 96(2) of the Constitution of the Kingdom of Nepal, 2047, and Article 116(2) of the Interim Constitution of Nepal, 2063.

The basic characteristic of a contract is that the contract concluded between the parties must be enforceable by a court of law in case of any dispute arises between them under that contract

Indeed, precedent is one of the major sources of law of contract in Nepal and common law countries like England and India. The decisions given by the court have been establishing various precedents in the cases concerning the law of contract. Such cases are to be the subject matter of the study.

A contract is based on the Latin maxim '*pacta sunt servanda*', which denotes 'agreements must be kept' (Garner, 2009). It means that once a promise is made towards the promisee party, it is an obligation for the promisor party. If not fulfilled, the aggrieved party may demand a specific performance of the promise through the court procedure. Hence, the major focus of this study is to analyze the trends set by the judicial decisions on the Nepalese law of contract in current perception. The supreme court of Nepal has disseminated justices on various cases relating to contracts brought before the bench, and some of them have established legal principles.

This study helps us to give a clear picture regarding the concept of contract law with reference to modern commercial law. It will help to give a clear picture of the Nepalese judicial trends regarding the law of contract.

Current Judicial Trends on Nepalese Law of Contract

The researcher has studied selected cases decided and published by the Supreme Court of Nepal to analyze trends in Nepalese contract law. The cases are published from 2023 to 2074 in the *Nepal Kanoon Patrika (NKP)* by the Supreme Court of Nepal. They are discussed under different subheadings.

i. Concerning to Definition of Contract:

According to *Muluki Civil Code, 2074*, Section 504, a contract is deemed to be concluded when two or more parties agree, enforceable by law, to do or not to do any act. It is the statutory definition provided by the current contract law of Nepal.

Though Section 2 (a) of the Act Relating to Contract of 2023 had defined a contract as an agreement between two or more parties to do or not to do something, in the case of *Dhruba Shumsher v. Nabaraj* (2022), the Supreme Court was able to define it even before the enactment of the said law. The issue raised in the case was determining whether the document was a partnership contract or a general transaction. It was held that the document (agreement) was not a partnership contract but was a document of the general transaction (*Lenden Ko*) because that contained only the share profit of the transaction, but not the account of benefit and loss of the business. This judicial decision was made before the enforcement of the first separate Act regulating contracts in 2023 B.S.

The popular case of *Tirtharajkumari Rana v. Binod Shanker Shrestha, legal heir of Ram Shanker Shrestha* (2040), was decided by a full bench of the Supreme Court of Nepal, which defined the contract with its essential elements. To determine whether a document was a 'contract', such document must contain certain essential elements, such as the meeting of minds between the parties to do or not to do something, and the involved parties must perform the promise. It is necessary to present the terms of the contract to the concerned parties, and no determined format of the contract is provided in the law. Likewise, the case of *Sarki Kami v. Kanchho Kami and Others* (2048) established a precedent that a document that contains the obligations of parties is called a contract, even though that was named as a 'document of advance payment'. Another case of *Badriraj v. Namraj* (2044) was also decided in the line of the above two cases of *Tirtharajkumari Rana* and *Sarki Kami*.

ii. Concerning to Essentials of a valid contract:

The popular case of *Tirtharajkumari Rana* has indicated essential elements of a valid contract to enforce it, that a contract needs a meeting of minds of the parties and the creation of obligation to the parties involved to do or not to do something. Unless otherwise provided in any specific law for a specific transaction, generally, there is no contract format provided by the public law regulating contracts in Nepal.

The case of *Chitra B. Karki v. Maniram Agarwal* (2071) contains issues regarding the essentials of a contract. A contract is deemed to be concluded between two or more parties when there is an enforceable agreement. Attending only consensus and agreement is not adequate for a contract to be valid. It must also have stipulations necessary to attain lawful objectives. No consideration of a contract is an important principle of a contract. Thus, consideration is considered an essential and compulsory element for a contract. There are mutual promises between the parties to gain or detriment something.

Similarly, the case of *Dhanamaya Maharjan v. Tulasi Maharjan & Others* upholds that there is no clear contract format in Nepal's public law regulating contracts. However, it says the contract document must clearly state the stipulations of responsibility of the parties and put their fingerprint with the consent as an essential element of the contract.

Likewise, the case of *Bijay Chandra Labh v. Everest Paper Mills, Janakpur* (2064) contains information about the essentials of a contract, in the sense that three things are most important - i) who is liable, ii) how to fulfill, and iii) the rights and liability of the parties created by agreement. An agreement that creates rights and liability for the parties but does not contain any provision regarding its performance cannot be regarded as a contract.

The case of *Ircon International Ltd. v. Ratidevi Mahato* (2069) contains about free consent is important in a contract. Due to the use of coercion and pressure, one cannot oblige a person to enter into a contract. If a person does not make any acceptance of the offer, there is no contract without the free consent of a party; a court cannot oblige a person to enter or reenter a contract.

In the case of *Shayera Banu v. Sharadram Bhandari* (2064), the Supreme Court of Nepal clearly stated the need for stipulations in a contract and that it is terminated after the accomplishment of the purpose and function of the contract. The contract being a 'private law' does not mean that any agreement can be a contract and can be interpreted in its ways beyond the framework of Contract Law (i.e. public law).

The case of *Richhood Multiple Pvt. Ltd. v. Rashtriya Baniya Bank Ltd.* (2068) describes a valid offer. Any authority's pricelist invitation, tender notice, bid notice, auction notice, etc., is not considered an offer. These are only 'invitations to offer, and the authority may choose any bidder to accept the offer.

Similarly, the case of *Achyut Prasad Kharel v. Office of the Prime Minister and the Council of Ministers* (2064) focuses on the capacity of parties to a contract. To create a contract, there must be competent parties, offer, and acceptance of the offer. In contrast, such an offer must be as per and not inconsistent with the current law. It must avail certain considerations; the contract must be created per the manner provided in the law, etc., which are the fundamental elements of a contract. Such provisions create liability to the parties, which is regarded as contractual liability.

iii. Distinguished between Contractual and General Transaction:

The judicial decisions of the Supreme Court of Nepal on the issue of the distinction between a contractual and general transaction (*Kapali Tamsuk*) are set by some case laws. In the case of *Ghanashyam Agarwal v. Abdul Kaiyum Ansari* (2064), the Supreme Court has distinguished the two documents; however, the documents were created by the same parties and for the same property. The first document, '*Kapali Tamsuk*,' was created for the

general transaction (debtor and creditor), and the second one was created for contractual relation to transfer ownership of the property (buyer and seller). *Kapali Tamsuk'* is the lending deed used for debt without security. It is the legal relationship between debtor and creditor (Singh, T.B., 2038))

The contract document was not considered valid because the contract's subject matter was the joint ownership of three persons. Promise related to such property of immovable nature was felt impossible to perform because a person's promise regarding joint ownership was in the absence of the consent of the two other owners.

The case of *Kalpana Sharma v. Tilak Prasad and Others* (2059) has made a clear perception in this regard. A contract is an agreement concluded between two or more parties containing stipulations. In case of breach of the stipulations and nonperformance of the promise and objectives could not be achieved as per the terms, the aggrieved party may knock on the court's door either to fulfill the terms or demand compensation from the breacher party in accordance with to contract law of 2023.

The supreme court of Nepal held that a contract is distinguished from a deed of general transaction in Nepalese society. In the case of *Kalpana Sharma*, the plaintiff filed a case to reimburse the advance payment of the price of the land transaction under the provision of rules no. 6 and 40; the court quashed the case and dismissed the demand of the applicant. The court held that-

1. Nature of the deed of general transaction and contract are different. Therefore, they are to be treated differently on the basis of different legal perspectives.
2. In the deed of general transaction, the debtor and creditor relationship is established for the lending transaction, whereas in the deed of contract, the offer and acceptor relationship is established.
3. To determine the deed as a contract or of general transaction, the content and context of the deed are important. In the contract, the intention of the parties is reflected through the stipulations that clear the rights and obligations of the parties to bind their conduct.
4. A court cannot go beyond the contractual intention of the parties by applying different laws incompatible with the concept of original contract principles. The responsibility of the court is to give effect the aspirations/intentions of the involved parties. Beyond that, a court cannot impose any of its own reflections.

iv. Deed of advance payment (earnest money):

The law of contract does not apply. Is the law of contract applicable in the deed of advance payment or not? It is the most debatable subject matter in contract cases in Nepal. The most popular case law in the contract, *Tirtharajkumari Rana*, had established a judicial principle in this regard. In the latest phase of the Nepalese law of contract evolution, the Act Relating to Contract, 2023, which was the first separate law in this regard, was applied. Such a deed of advance payment was decided based on Sections 18(2)(a)(b)(c) and 4(1) of the Act Relating to Contract, 2023.

In the case of *Baburam Rai v. Sarita Devkota* (2058), the court decided that the demand of the plaintiff was quashed on the basis of not following the provision of Section 18(2) (c) of the Act Relating to Contract, 2023, and applied based on the statute of limitations of No. 40 of the Chapter on General Transactions of erstwhile *Muluki Ain*.

The deed of advance payment is regarded as an agreement to sell. Such cases were decided by a single bench, division bench, and full bench in the cases of *Tirtharajkumari Rana v. Ram Shanker Shrestha's legal heir Binod Shanker Shrestha*, *Summit Hotel (P) Ltd. v. Sharada Prasai*, *Pradip Raj Pandey v. Karma Laxmi Kansakar*, *Nanichhori Maharjan v. Rahindra Maharjan and Ors.*, *Budhiyadevi Chamarni v. Amiri Mahara Chamar*.

However, one can see that the court has been reluctant in this regard. In some cases, the court has made decisions in contradiction to the above cases, such as the principle established by the court in the landmark case of *Tirtharajkumari Rana*.

In some cases, the deed of advance payment is not regarded as a contract, i.e., *Sitaram Timilsina v. Bhakta Bahadur Tamang, Bir Shanker Kasai v. Anita Lama*, etc.

Such cases were decided based on the Chapter on General Transaction of the *Muluki Ain*. However, the principle established in *Tirtharajkumari Rana* regarding the deed of advance payment regards such deeds as contracts. The aggrieved party is entitled (or is free) to choose any option of remedy, either contractual remedies or the remedies based on the Chapter on General Transactions of the *Muluki Ain*.

In this issue, the Supreme Court has given a final verdict in the case of *Tularatna Bajracharya v. Chet Sundar's legal heir Tara Shrestha Pratabasnsa* (2076). This case has overruled some previous cases that had denied deeming the deed of advance payment as a contract. In paragraph 43 of the judgment, this case clears out that the deed of advance payment cannot be considered a contract unless it fulfills the due process of law as per Section 1 of the Chapter on Registration of the erstwhile *Muluki Ain*. The court reached its decision based on the principle that all agreements are not contracts. It is to be noted that this is relevant only in the case of the sale of immovable property. Such a deed of advance payment for transferring immovable property is merely an agreement to sell. It was also held that specific performance could not be granted in the cases of advance payment for the sale of the immovable property since such deeds are not effectively contracted unless the legal formality (of registration) is fulfilled.

v. Writ petition does not apply in contractual liability:

According to the precedent established by the Supreme Court of Nepal in the case of *Weyujiang (Chinese citizen) v. Government of Nepal* (2069), it was held that a writ petition could not be entertained in contractual cases. The verdict, in this case, has been rendered on the basis of the following logical grounds:

- a) The contract of sale of goods is a special contract. There are contained stipulations obligatory to the parties involved. If any party breaches the terms of the contract, the aggrieved party is entitled to compensation for the loss.
- b) In case of breach of the contractual terms, the aggrieved party may file a civil case in court as per the contract law. It is not reasonable to drag a fraud case into a criminal case.
- c) The case in question is not regarded as fraudulent, as both parties were involved in the contract with their free consent. A fraud case can be established where there is deception, violation of any law, contract by fraud or misrepresentation, or acted recklessly by a party against another.
- d) The case is filed in the course of the performance of a contractual obligation (civil liability). Therefore, it is not justifiable to establish a fraudulent offence against the defendant.
- e) The civil case can be preceded in accordance with Section 27 of the Government Cases Act, 2049, by the plaintiff.

vi. Contractual obligation cannot be regarded as a constitutional issue:

The case of *Siddheshwor Kumar Singh and Ors. v. Government of Nepal* (2066) has decided that contractual obligation cannot be regarded as a constitutional and statutory case. If it is taken as a statutory case, the rights and liabilities created by the contract law could be void. Contractual disputes as settled by the contractual provisions that are not in the vacuum of legal remedy. The contractual obligations cannot be deemed as statutory liabilities.

In the case of *Karishma Impex Panipokhari v. National Trading Ltd., Teku* (2048), the Supreme Court decided that contractual obligations cannot be executed in accordance with the extraordinary jurisdiction.

vii. Format and formality of contract:

The Contract Act, 2056 (S.88) contained a provision 'In case prevailing law prescribes that any specific procedure must be followed for executing any specific contract, or that any specific contract, must be registered at any government office, a contract signed without fulfilling such formalities shall not be valid.' In this regard, the Supreme Court held, in the case of *Tularatna*, that an ordinary or formal process could create a contract. In case any provision has been provided in law for its formality and validity, that should be managed in due course. However, the parties are autonomous in determining a contract based on the nature and subject matter of the contract.

Section 505 of Muluki Civil Code, 2074 has contained some conditions for an enforceable contract, such as free consent expressed, contractual capacity/qualification, the certainty of subject matter, and lawful obligation. It may be in written or verbal or by conduct. Suppose there is a requirement that a particular contract is concluded in fulfillment of any particular procedure or formality. In that case, such a contract may not be enforceable unless such procedure or formality is completed.

4. CONCLUSION AND IMPLICATIONS

A judicial decision is one of the major sources of Nepalese contract law. A general direction in development or change in Nepalese contract law can be traced based on the above discussion. The decision held by the court concerns the definition of a contract, the essentials of a valid contract, the distinction between contractual obligation from the general transaction, deed of advance payment, writ petition does not apply in contractual liability, the contractual obligation cannot be regarded as a constitutional issue, format, and formality of contract. This discussion shows the general trend of development at a natural pace.

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