

Shifting of Governance and Justice: A Reference of Nepal

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Abstract

Governance is the exercise of the political, economic, social, and administrative authority to manage the nation's affairs. Power and justice strengthen systems to support human rights, peace, unity, democracy in the country. The governance system in Nepal since the ancient period of Kirats, Lichhavis, Mallas laid in Hindu Religion, Ved, Mundhum, Shmritis, Manab Nyayasastra, and order of the Kings. At the beginning of the modern period, after the unification of modern Nepal from Shahs, Ranas, Panchayat till the youngest republican democratic state, justice and governance make the Nepalese authority more accountable, transparent, inclusive, efficient, and participative. From the ancient to the modern times, governance emphasizes interactions between state, and social actors and among people representative themselves. Shift from Dharmasastra to judiciary and other ADR procedures since the ancient to the modern period are/ were the primary methods to govern the state. The paper aims at presenting several dimensions to analyze paradigm shift of governance and justice system from ancient period till dates where the journey from Dharmasastra to the rule of law, independent judiciary, and people's supremacy. It highlights justice delivery in Nepal, which has slowly and gradually integrated into a centrally administered national judicial system.

Keywords: *justice, governance, the rule of law, dharmasastra, Nyayasastra, smritis, transparency, accountability*

1. The concept of Governance and Justice

Sophal Ear (2002) states that governance broadly operates at every level, such as household, village, municipality, nation, region, or the globe. Justice is a social concept that originates in man's life in the society. In the past, justice is as to punish the dishonest, and protect the honest. John Finish (2011) a legal jurist, provides the requirement of justice as the practical reasonableness that one favors the common good of one's communities. In every walk of life, justice is the end of the government. The inception of governance and justice is as old as the evolution of human civilization.

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Justice in *Nicomachean Ethics* by Aristotle is happiness. Justice is honored as the supreme principle of all principles. Justice is reward for the society. It is just like the poor kids who are provided shoes, bags, dresses, books and copies, and free education. Fight to justice and governance is said to be started from the very beginning of human civilization. Justice is peace and genuine respect for people, fairness, justness, fair play, fair-mindedness, equity, impartiality, and lack of bias, objectivity, and neutrality, lack of prejudice, open-mindedness, and happiness. The concept of justice differs from culture to culture. It does not remain same forever.

Governance is the just exercise of authority, the capacity of problem- solving and conflict resolution. UNDP (1997) indicated the word governance as the exercise of economic, political, and administrative authority to manage a country's affairs at all levels. Government plays a crucial role in forming, building, rebuilding, and transforming countries into ordered and organized. Various initiatives should be undertaken to provide a more and competitive compensation system in the government to improve economic well-being of civil servants and raise their morale, with a view to better service position. John Rawls (1972), justice is the first virtue of social institutions as truth is the system of thought. It enhances social, cultural, political and legal rights for prosperity, and development.

In the words of Knight Andy W. (2009) good governance demands the transparent and accountable management of human, natural, economic and financial resources. The ideals of governance and justice in the past to the present era are different in the name.

The economic development pushes backward if the weak rule of law and unresponsive justice system prevail in the country. Governance and justice face challenge if delays in resolving corruption cases, the high cost of litigation and the long arduous legal process. Poor governance and justice system have resulted diminution of public trust and confidence, and the presence of archaic laws and rules, and low funding support. Another factor affecting investor's confidence is in contractual obligations and the proper enforcement of property rights among domestic investors and outsiders or foreigners.

To create proper governance and justice system in the country, there requires the Alternative Dispute Resolution (ADR). The quick and prompt decisions continuously encourage and actively promote governance. The use of ADR provides speedy, efficient and prompt resolution of the disputes.

In the context of Nepal, Governance and justice in the ancient period laid in Dharma or Religion that played a vital role. Of course, the justice system of the Kirat period was based on Mundhum. All of them, including Kirats, and non-Kirats, Lichhavis non-Lichhavis, Malla, and non-Malla ruled the nation on Dharma. Mundum,

the holy scripture of Kirats, was a main source of justice system. As the *Twelve Tables* was popular in the Roman civilization, Mundhum in Kirats period was popularly practiced in Nepal. The Lichhavi kings were the source of justice. Dharmasastra, Rajagya, King's orders were the ultimate source of administration of justice in the country.

Before unification and after the unification of modern Nepal, justice delivery was based on Dharma and human-made law. The governance and justice system had been slowly integrated into a centrally administered national judicial system. The Hindu legal system and customary practices have more significant impacts among the people of Nepal and India, including SAARC countries. The Nepalese legal systems in the ancient and medieval period of the kingdom was absolutely directed by Manushmriti, Yagabalkya Niti, ManabNyayesastra, Shmriti, and the order of the Kings. The justice system had been administered under the religious, social, cultural, and moral rules and traditional values.

In the modern context of Nepal, governance is connected with the concept of the constitutional development and integrated into a centrally administered national judicial system. Nepal has entered the arena of the applications of constitutional development from 2004 BS to 2072 BS. William G. Andrew defines the constitutional government as a limited government regulated by the principle of the rule of law. The Constitution promulgation in different years such as 2004, 2007, 2015, 2019, 2047, 2063, and 2072 BS which have their own features. Many of the Constitutions of Nepal have failed not to adopt the notion of constitutionalism, that recognizes the necessity for the government to establish minimal government and delivers the liberal government system. Independence of judiciary, the rule of law, accountability, separation of power, non- recognition of minority rights, inclusion rights were not institutionalized. However, primarily the Interim Constitution 2063 BS to some extent included the notion of constitutionalism. The current constitution of Nepal 2072 BS has been promulgated to fulfill the aspirations of good governance, justice, development, and prosperity. Besides centrally integrated judicial justice system in the country, there requires the Alternative Dispute Resolution (ADR) for quick and prompt decisions that encourage people getting governance and justice.

The paper aims at disclosing the paradigm shift of governance and justice from the beginning till date. Justice is associated with social interactions that response the desired one. The social interactions bring the solution to a large number of people to response the minorities, women, Dalit, and indigenous people, especially socially, culturally and geographically disadvantaged groups. In the modern justice system, the constitutional attempts have provided equal shares for both private and public spheres of life and decision-making process.

2. Meaning and Definition of Governance and Justice

2.1. Governance

The word governance is derived from the Latin word ‘Guernare’ and the Greek word ‘*Kubernaein*,’ which means to *steer*.^{*} Governance terminology is not new rather as old as human civilizations. It was quite popular in Kausalya’s Arthashastra. It has many variations. Some countries have good policies, but weak institutions, and others have reasonable institutions, but inadequate policies, yet others have neither.

Governance is not just about government. Governance is about a good society. It is a process whereby societies and organizations make important decisions. It refers to the whole economic, social, cultural, and political fabric of a country. Governance discusses how a society sets and manages the rules that guide policymaking, and policy implementation.

Harlan Cleveland (mid-1970), primarily used the word ‘governance’ in the public administration. What the people want is less government, and more governance. Power is now everywhere and appears to mean anything and everything. It is the structure of political institutions and the development of social capital, civil society, and high levels of citizen participation. Governance is inter-jurisdictional co-operation and network management.

It results from the interactions, relationships and networks between the different sectors (government, public, private sector and civil society), and involves decisions, negotiation, and other power relations between stakeholders to determine who gets what, when, and how. The relationships between the government, and other sectors of society determine how things are done, and how services are provided. Governance is therefore much more than government or ‘good government’ and it shapes the way a service or set of services are planned, managed and regulated within a group of political, social, and economic systems.

So, governance has opened a new intellectual space that is used to describe how a country is governed.

2.2. Justice

According to Plato, justice is righteousness, non-interference, and harmony. Virtue of the soul is justice. A just soul, in other words, a just man, lives well; an unjust cannot. Plato has treated justice as the bond which holds a society together. The Republic deals with the bond and true principle of social life.

Aristotle divided justice into two categories as distributive and corrective. Distributive justice is the duty of the state to distribute resources among its people emphasizing the

^{*}*Sophal, Ear. (2002). Has More Aid Worsened Governance since 1995? Berkeley: Department of Political Science, University of California, 2001, p. 4*

fairness of the outcome of allocation based on income, wealth, job, opportunities, and welfare. And corrective justice is the court's duty to maintain fairness in the distribution process and provides remedies for the victim. The corrective justice means to send prison for the criminals or the jail. Therefore, in a just society, the rights secured by judge are not subject to political bargaining or the calculus of social interests. Bentham defines justice as the maximum happiness of the maximum number of people. The Code of Hammurabi declares that justice is to appear to the land by destroying the evil and the wicked so that the strong might not oppress the weak. For H.L.A Hart, justice as a shared concept i.e., everybody wants justice seen and done. For Ross, justice is the correct application of law as opposed to arbitrariness; by making decision based on rule and law of evidence and trial, not by mere personal suspicion or opinion.* Dennis Lloyd (1964) defines justice linked with equality of treatment and undoubtedly owes much to the association of justice with legal-proceedings. Law is supposed to be applied equally in all situation, and to all without fear or favor, and the application of law without discrimination best embodiment of justice.

Modern jurist John Rawls defines the concept of justice with the principles of generality, universality, publicity, adjudicatory, and finality. Whatever the issues the judges must apply those principles in their decisions. For him, inequality is a reality, which is the result of the liberal capitalist system, and unjustly affects the poor or the weakest people in which the justice in the positive way of helping them to improve their condition. Equality should be maintained in each and every social order. Human beings have been wandering in quest for justice. The children, the disabled, and even the cattle maids are aware of some aspects of justice, and basic security. The poorest of the poor of society may feel that justice could be a right livelihood. They should not be paid less because of gender, and they should not have to wait longer at the bank, electricity office, and other public, and private institutions because of what they are wearing. They should be provided service fairly and impartially. So, the Constitution of Nepal 2015 has primarily addressed quota systems in education, health, politics, and several services. And also make the provision of ADR for conflict resolutions in prompt and speedy manners to settle the disputes. From the above perspectives, none of the concepts of justice could be accepted universally.

3. Brief Historical Overview

3.1. Governance and Justice in the Ancient Period

Though Kirat and Mahishpal period written history was found rear, they discharged justices with the medium of Dharmasastra. The history of Nepalese law was

*M.D.A., Freeman. *Lloyd's Introduction to Jurisprudence*. (8th ed.). Thomson Reuters: 2008.

linked with the history of Nepalese state and law. Until 1178 AD, there were Gopal period, Mahishpal period, Lichhavi period and Thakuri period where governance was the instrument of the orders of the Kings. Kirat kings of the Mongoloid family administered justice as per the Mundhum – similar to those of the Hindu's Veda, their holy scripture.

Several Shmritis, Nitis and Sastras were the greatest instruments after Kirats period. The Lichhavi period began in 250 B.C., which ruled in Nepal accordance with Dharmasastra, customary laws, Rajagya (king order), and Sanad (order on a specific topic). The kings were regarded as the fountain of justice and promoter of governance. They introduced a limited form of local self-governance system, which was known as Panchali stated by Nepalese Historians.*The Kirat dynasty was followed by the Lichhavis, who ruled ancient Nepal until the end of the eight centuries. They originally migrated from Vaisali of Northern India, and assimilated themselves with the indigenous Nepali people of ancient Nepal. The Lichhavis were credited to have introduced the Aryan way of life, i. e. the Varna Vyavasta (caste system). They introduced the legal system based on Hindu Dharmasastra.

3.2. Governance and Justice in the Medieval Period

During the medieval period, Mallas means wrestlers in Sanskrit, ruled, especially in Kathmandu, Patan and Bhaktapur cities before the unification of Modern Nepal in 1771AD. The downfall of Lichhavi dynasty in ancient Nepal was considered old era of Nepal's history, and the starting point of the medieval era of Nepal. After the Lichhavi rule, Nepal was divided into numerous kingdoms. JayesthitiMalla's contribution of *Manab Nyayasastra* (Code of Legal Rules for Human Justice) was one of the seminal written code before Napoleon code in France, which represented the beginning of the governance system in Nepal.

The Nyayabikashini was promulgated in 1437, which could be one of the oldest written law in South Asia, that was based on Naradha Smriti focused to Verna Bybastha (caste system). The entire justice system was based on Hindu Dharmasastra, religion, local custom, traditions, usages and Royal Edicts. The code of Manab Nyayasastra was entirely based on the concept of justice, where the criminal justice system was comprehensively written. Other legal provisions were strongly mentioned in the systematic forms in codified way. It does not mean that Nepal does not have any written law before the codification and the promulgation of the Muluki Ain.

Even in the statement of Prithivi Pal Malla, one of its kings of that period, found in a golden inscription that reads: "Only society respecting the value of justice could be

*Sangroula, Yubaraj "History of Nepalese Criminal Justice System: Some Milestones and Cracks" *Nepal Bar Council*. 2010. P. 13

a civilized society. The religion means justice and faith, and the king is not above the religion, and the justice.

From the above grounds, like the Lichhavi period, the medieval kings were depended on Smritis. As a remarkable feature of this period, several numbers of Smritis appeared as the leading sources, thereby ending the monopoly Manusmriti.*Malla kings emphasized the need of decentralization in administration and justice. The codified law existed to operate the society having full of justice. The code mentioned in the Manab Nyayasastra are (a) Tulo (Beam Balance) (b) Agni (fire), (c) Jal (water) (d) Vikh (Poison), and (e) Kos (fast).

In the earlier period, King Ram Shah gave more attention to drafting rules and edicts (Thiti) on various aspects for running administration. His famous legend of justice as "Go to Gorkha if the Justice is denied" is still common talk among the people of Nepal. He developed the rules for the state's officials. Where he recognized the principle of natural justice in the administration of justice. Twenty-six Thitis indicated the interest of loan, accurate measurement system, preservation of roads, forests, and professions.

After the unification of modern Nepal, PN Shah followed the traditional justice system. The king should appoint competent judges to administer justice in their absence. Such system more or less was followed by the Muluki Ain 1854 which was promulgated by Janga Bahadur Rana in 1910 BS.

Thus, the medieval kings like Lichhavis used Hindu texts as authoritative sources of law. Manu Smritis, Yagavalakyay Smriti, Brihaspati Smritis, and Narada Smritis had been regarded as the most authoritative source of laws.

3.3 Contribution of Prithivi Narayan Shah, Builder of Modern Nepal

Prithivi Naraya Shah, unifier and builder of modern Nepal, administered governance from the traditional legacy of JayesthitiMalla's Manab Nyayasastra, Dharmasastra, and Thiti of Ram Shah. PN Shah unified the country under the House of Gorkha in the 18th century and his successors conquered the small principalities made Nepal the powerful Himalayan Kingdom. The territory comprised the land between Tista and Kangada rivers, in the east and west respectively. The Sugauli Treaty of 1816, which ended Nepal's war with the British rulers in India, resulted in a heavy loss of territory in the south, east, and west frontiers of Nepal.

He not only kept internal management but also developed external relations with the Emperor of China and maintained a friendship with of English Emperor. His profound Dibhya Upadesh helped to govern the nation and reform judicial system. In one context,

*Regmi, Dr. Jagadish Chandra. *NepalkoBaidhanik Parampara (Judicial Custom of Nepal)*. TannerPrakashan: Kathmandu, 1979.

he said that King should provide complete justice to the people. Those who offer a bribe and accept bribes are destroyers of the justice and the great enemies of the state.

3.4. Commencement of Muluki Ain 1910 (Country Code 1954) in Nepal

Until the codification of Muluki Ain in 1854, the Hindu scriptures, Thitis of Ram Shah, Manab Nyayasastra, several Smritis and Nitis had been treated as the best source of law. The historians and lawyers claim that Janga Bahadur was inspired by the Napoleon Code and designed to make codified law. Prime Minister Jung Bahadur Rana visited Europe in 1850. It is quite noticeable that he got the inspiration from propound legal code of Europe. The code was promulgated to provide equal punishment for the same crime. The administration of justice before 2007 BS was based on indigenous values.

To promulgate the New Muluki Ain, 1963 several sources were adopted especially Sanadas, Sawalas, Rukkas, Hindu Dharmasastra. The Muluki Ain 1920 BS had to give emphasis on the principle of “Equality before the Law”. It had made provisions for punishment without any discrimination on the basis of caste, sex, religion and greed. The equality before the law is declared to be the motto of Muluki Ain. Theoretically and conceptually they are mostly based on traditional and indigenous legal systems. And finally, the Muluki Ain, 1910 BS was a landmark Code for providing governance and justice in Nepal.

4. Governance and Justice System of Nepal (1951-1990)

Though the history of the modern judiciary is very young as it started only after the success of the people’s Democratic Movement in 2007 BS. Before 1951, the operation of the inquisitorial system was prominent justice system. That means the court exercised the role of investigation together with adjudication. The judges had authority to discover evidence, and conduct a judicial inquiry before the sentence was passed. The promulgation of the Interim Government of Nepal Act, 2007 BS made several changes in the Nepalese legal system.

The appointment of Mr. Hari Prasad Pradhan, first chief justice of the Pradhan Nayalaya (Apex Court) was catalytic in importing principles of the Anglo-American approach of justice in Nepal. The Constitution of the Kingdom of Nepal, 1959 further accelerated the judicial system’s development to an adversarial process. So, foreign law reception started in Nepali territory in the modern time when the Pradhan Nyayalaya Act, 2008 was introduced. This Act had a historical significance in constitutional development. It was influenced by West-ministerial model of polity. Sir Ivor Jennings was invited to draft the constitution of the Kingdom of Nepal, 1959. The constitutional documents transplanted West-ministerial model of government. Previously Nepal had

inquisitorial or civil law case model justice delivery. Pradhan Nyayalaya Act, 2008 introduced the precedent and writ system in Nepal. Different Acts were commenced to establish justice as the Civil Right Act, 2012, Interpretation of Statute Act, 2010, Essential Goods Protection Act, Foreign Currency Control Act, respectively.

In 1962, a new constitution – the Constitution of Nepal, was promulgated which introduced two basic concepts, i.e. the sovereign monarchy and the Panchayat polity. In 1963 a New Muluki Ain replaced the Muluki Ain promulgated by Junga Bahadur Rana. The new code genuinely introduced a secular and universal code of law in terms of penal system.

The popular Mass Movement restored democracy in 1990 that results promulgation of the constitution. The Constitution of the kingdom of Nepal, 1990 safeguards the independence of judiciary. The Interim Constitution of Nepal 2006 brought fundamental changes in the legal system. And finally, the present constitution of Nepal 2015 has brought fundamental changes and declares Nepal as an independent, indivisible, sovereign, secular, inclusive, democratic, socialism-oriented, federal democratic republican state.

The Nepalese governance system in due course of time changes several legal and judicial matters on the grounds of the necessity of the nation. The several Acts including Muluki Criminal Code 2017, and Muluki Civil Code 2017, Public Procurement Act, 2007 and Public Procurement Rules, 2008 are the legal measures to regulate and control current legal issues. Prevention of Corruption Act, 2002 and Commission for the Investigation of Abuse of Authority Act, 1991 are the principal legislation in Nepal to control corruption.

The governance system of Nepal, in short, can be categorized into three different phases. The first phase was from the period of 1951 to 1990, the second from 1990 to 2006, and the third is from 2006 or the promulgation of the Constitution of Nepal, 2015. The **first phase** of 1951 was the democratic movement of the Nepalese people who overthrew the Rana family oligarchy at an initial stage. After this revolution, new form of governance started in Nepal. During the first phase from 1951-1990, several governmental mechanisms were established to govern the nation.

The **second** was the Mass Movement of 1990 and other series of events for governance was held in the period from 1990-2006. However, there remain many hurdles to have successful implementation. Corruption, long time sans elections in the local level, lack of political consensus among major political parties, ten years of Moist movement, interference of monarchy in the democracy, political instability, weak civil society, unemployment, unmanaged and unregulated private sectors, and problems in the bureaucracy were significant challenges.

The **third phase** of governance in Nepal took place after the democratic mass movement of 2006 and after the promulgation of the seventh Constitution of Nepal in 2015. During this period, Nepal has exercised several reforms in governance and justice. The Constitution of Nepal, 2015, Good Governance Act, 2064 BS, Local Government Operation Act, 2074 BS is applicable laws for the governance system. Article 27 of the Constitution of Nepal, 2072 BS, right to Information Act, 2064 BS, and Right to Information Rules, 2065 BS are statutory measures of Nepal for transparency and right to information. Besides centrally integrated judiciary system the Alternative Dispute Resolution (ADR) is going to practice for quick and prompt decisions.

5. Challenges to Governance and Justice System in Nepal

The significant challenges are corruption, security, politics, administrative, judicial, economic, socio-cultural, access to information, accountability and transparency, criminalization of politics, and unemployment. The reformations of all sectors in a limited time frame of such a shattered economy, and deficient infrastructure are the major trials. The eroded health care and dilapidated education system usually challenge governance and justice in societies.

(a) Corruption: The Prevention of Corruption Act, 2059 defines corruption means the abuse of entrusted power for private gain. Commission for the Investigation of Abuse of Authority Act, 2048 is the principal legislation of Nepal to control corruption. Nepal is also the member of the UN Convention against Corruption, 2003. Corruptions of public officials are investigated by the Commission for the Investigation of Abuse of Authority (CIAA). Corruption may be financial and non-financial gain. So, corruption is the first and foremost enemy for achieving governance.

(b) Security: Open border between India and China has been misused by terrorists, criminals, traffickers and unwanted elements. It has affected the peace and security of not only Nepal and India, but also the other countries of South Asia. Nepal has gone through several securities issues since the rise of extremist armed group and lack of the rules of law. Border issues, especially Nepal and India, where India shows big brother in every sector. India from 1973, onwards, has encroached the Nepalese territory Lipulake, Kalapani, and Limpiyadhura, which is more than 395 KM. So, Nepal-India open borders should be turned into a regulated system on a step-wise basis to address the challenges. It has to be agreed by both the governments for the benefit and security of both nations' people.

(c) Political-administrative Challenges: Though the Nepalese politicians themselves are not adequately educated, and visionary like the developed countries America, Canada, Britain, they have made provocative and populist politics. They refuse taking

suggestions of experts, academicians, researchers, geographers, legal experts, and civil society. They mostly spend time correcting and modifying their earlier regime without doing actual analysis. Political interference everywhere at various stages of decision-making and implementation has created a problem. Particularly, making a balance between the elected leaders and recruited administrators has become a significant challenge. Nepalese people since 2007 BS fought for democracy but it remains incomplete. The revolution of 1990, 2007 bought a new hope to the people, yet hopes and expectations of the people are not met. The two-third majority government attempts to create more effective governance and justice, however, ambitious politicians forget what they promise in their political agenda.

(d) Economic Challenges: Fewer saving and more consumptions, the government spends more and earns less, low education, import jumped, and export dropped, inflation, poverty, insufficient agricultural production, population growth, corruption, unemployment, economic growth, literacy rate, and income inequality are the major financial challenge. The major challenge is landlocked country. It is a fact that economic freedom is the fundamental right of every human being. They are focusing on traditional methods of production, depending appropriately to India, especially in fuel and even in agricultural products.

(f) Judicial Challenges: Justice is the end of the government. It should be provided timely, efficiently, impartially, and economically. Access to justice in Nepal is very far. It is very costly too. Nepal has three tiers of courts Supreme Court, High Courts, and the District Courts. Nepal judiciary has failed to deliver timely, and equitable justice, and has been complimented with the controversy of appointment, promotion or discharge of judges in an unfair, and biased manner. The dumped precedents hardly deliver justice to the people. The contradictory and ambiguity in decisions by the Supreme Court and other courts' decisions affect getting fair justice. Making delay justice and giving less importance to the Alternative Dispute Resolution (ADR). It is true that the quick and prompt decisions encourage people getting promote governance. The legal system of Nepal needs to be reviewed seriously with the principles of law and justice.

The Constitution of Nepal 2015 provides an independent judiciary, but appointment and promotion from the political quota system jeopardize the telos of judiciary. If judiciary is not independent, corruption and anarchy create a serious threat to the justice system.

Despite the challenges, since the ancient time till date, Nepal continuously maintains governance and justice in her ways. She has well-managed the transition of autocratic rule of Ranas, and Panchayat system to a liberal democratic via the youngest republican state. Moreover, legal reformation and its systematic transformation are required to be done in well-managed way. Governance and justice cannot be possible

only from the government sectors alone. Neither the independent judiciary nor the private sector can bring reform in it. Despite difficulties, the amalgamation of all three may bring reform and the paradigm shift in governance and justice in Nepal.

6. Conclusion

Since the ancient period, the governance and justice have been implementing form the collective decisions. Until 1178 AD, there was the Kirats, Gopal, Mahishpal, Lichhavi, and Thakuri periods where governance was probably the instrument of King's orders and Dharmasastra. The king was said to be the representative of God, and his primary duty was to enforce law, and dispensed justice in accordance with divine law. Dharmasastras until 1178 AD, Manab Nyayasastra, 26 Thitis of Ram Shah, Dibbye Upadesh of Prithivi Narayan Shah and Codification of Muluki Ain of some parts until 1951 were playing a crucial role in forming development and justice. Most importantly the government handles conflict over interests and values than the other institutions in the society in better way then and now. Governance and justice system in Nepal from past to present makes a paradigm shift from Dharmasastra to the foundational indicators of each governance arena like civil society, political party, government, bureaucracy, economic society and Judiciary. The indicators of governance, and justice nowadays are freedom of expression, freedom of assembly, the rule of law, free and fair elections, meritocracy, absence of corruption, and impartial judgement. It is a paradigm shift in governance and justice system in Nepal where she discharged her justices from the centrally integrated judicial system and another Alternative Dispute Resolution (ADR). The use of ADR provides speedy, efficient and prompt resolution of the disputes. By providing equal opportunities to all and benefits to all can be made society just. Institutions, divisions of power, decentralization, periodic elections, an independent judiciary, capacity building, and other state characteristics are the foundation. So, governance is such a beautiful and unending catchy word that the poor and illiterates' kids worldwide are provided shoes, bags, dresses, books, copies, and free education. The response to needy one is the best system of governance. They bring the rule of law, accountability, transparency, free and fair election, independent judiciary and overcome the violence, conflict, unlawful activities in the world. Nowadays, governance and justice are a matter of globalization, privatization, localization, and the democratization process. Governance and justice are not only possible from the government or the judiciary and or the private sectors alone. It is incorporation and amalgamation of all three brings reform in the country.

References

- Andrew, G William. (1969). *Constitutionalism*. (3rd ed.). (ND) PM
- Bhattarai, Lokindra Hari. (2018). "Critical Appraisal of Governance and Justice: Then and Now in Nepal. *Molung Educational Frontier*.
- Cleveland, Harland. (1972). *The Future Executive: A Guide for Tomorrow's Managers*. New York: Harper & Row.
- Constitution of Nepal* (2015), Preamble.
- Finch, John. (2011). *Natural Law and Natural Rights*. (2nd ed.). Oxford University Press.
- Freeman, M.D. A. (2008). *Lloyd's Introduction to Jurisprudence*. Thomson Reuters
- Graham, John and et.al. (2003). *Principles for Good Governance in the 21st Century*. Institute on Governance.
- Kaufmann, Daniel and AartKraay. (2008). *Governance Indicators: Where are We, Should We be going?* IBRD/World Bank: Oxford University Press.
- Knight, Andy W. (2009). "Democracy and Good Governance," *The Oxford Handbook on the United Nations*. Oxford Handbooks Online.
- Paudel, Dr. Devraj. Raja Jayesthiti Mall ko Kramagat Kanoon: Manab Nyayasastra". *Nyayadoot*. Year 23, Vo. 69, no.6.
- Plato. (1941). *The Republic*. London: Oxford University Press.
- Rawls, John. (1972). *A Theory of Justice*. Cambridge: Harvard University Press.
- Reeve, C.D.C. (2014). *Nicomachean Ethics*. Hackett Publishing Company Inc: Cambridge University.
- Regmi, Dr. Jagadish Chandra. (1979). *Nepalko Baidhanik Parampara (Judicial Custom of Nepal)*. Tanneri Prakashan: Kathmandu.
- Sangroula, Yubaraj. (2010). "History of Nepalese Criminal Justice System: Some Milestones and Cracks" Nepal Bar Council.
- Shah, Rishikesh. (1992). *Ancient and Medieval Nepal*. Kathmandu: Ratna Pustak Bhandar.
- Shrestha, Buddhi Narayan. (2014). "Case study: Nepal-India Border Management and Its Challenges and Opportunities." Kuala Lumpur, Malaysia, 16-21.
- UNDP Kathmandu (2004). *Nepal Human Development Report: Empowerment and Poverty Reduction*.
- Wilde, Alexandra, et.al. *A Users' Guide to Measuring Local Governance*. UNDP Oslo Governance Centre. www.lawcommission.gov.np