



A Study on the Role of the Judicial Committee in Nepal to Ensure Women's Access to Justice

Advocate Tej Man Shrestha

LL.M in International Human Rights Law, University of Essex, Colchester,

The UK and LL.M in Constitutional Law and International Law, TU

Email: lawteaching2022@gmail.com

Advocate Rukamane Maharjan

LL.M in International Human Rights and Humanitarian Law from the University of Essex, UK.

LL.M. in Constitutional Law and International Law, TU

Email: rukumaharjan@gmail.com

Advocate Dr. Balram Prasad Raut

Ph.D., SAARC University

Email: balramraut@gmail.com

Article History : 2025 September 3

Abstract

Access to justice is a fundamental principle and a pre-requisite for ensuring equal protection of law and effective remedy. However, in Nepal, it is argued that women do not enjoy equal protection of law and subsequently, access to justice and effective remedy. This is particularly true for rural women in Nepal. With the federalism in Nepal, local judicial committees have come to existence as a judicial forum closer to local people that understand local contexts and is accessible for women and other vulnerable population. This paper explores the link between these committees and women's access to justice. It includes a case study of Bagmati Province where 332 service seekers from the Committees were surveyed regarding the role of the Judicial Committee in improving women's access to justice.

Key words: *women's access to justice, judicial committee,*

A. Introduction

Justice administration is a core function of any State and a just society is essential for peace, and peace is necessary for development (Nepal Law Society and The Asia Foundation). Therefore, it is the duty of the State to ensure access to justice. The United Nations Organization (UNO) has defined 'access to justice' as a core principle ensuring that there is equal protection of law and equal opportunity to seek and obtain a just resolution to legal problems to all (UNDP, 2004: 3-7). It includes among others, protection of rights, access to

effective remedy and redress, legal assistance and accountability (Ibid). It is seen as a crucial aspect of the rule of law and fairness that applies to all legal areas, including civil, criminal, and administrative matters (Ibid). In other words, it helps people understand their rights, the legal process, and effective remedy and redress.

Enhancing access to justice requires legal protection, legal awareness, legal aid and counsel, adjudication, enforcement and civil society oversight (UNDP, 2004). These are seen as key components of access to justice. It is observed that key barriers to access to justice in Nepal are (UNDP, 2004):

- Lack of Information and awareness;
- Lack of protection for women and vulnerable populations;
- Gender bias and other barriers;
- Formalistic and expensive legal procedures;
- Long delays in justice delivery;
- Limited remedies;
- Weak enforcement and culture of impunity; and
- Lack of legal aid provisions.

In this context, judicial committees are envisioned as the first line of justice that can link individuals to various justice providers like local mediation centers, district courts, police, and other government and social service providers at the local level (Nepal Law Society). Judicial committees are established and functional in 753 municipalities and rural municipalities that are designed to address the shortcomings of the traditional legal system and connect formal and informal justice (Ibid). They are empowered to handle specific disputes, such as property boundary issues, damage to crops, and certain minor criminal offenses. They also have the authority to settle other matters through mediation, such as divorce or certain assault cases. These committees are not formal courts; their decisions can often be appealed to a district court.

It is important to understand that a judicial committee's jurisdiction and powers are often less extensive than those of a formal court system. The aim is to provide a more accessible and often quicker way to resolve disputes within a community, rather than replacing the formal justice system entirely.

To study the role and effectiveness of local judicial committees in promoting women's access to justice, a comprehensive survey was conducted in Bagmati Province, Nepal. In 2024, a total of 332 individuals participated in the study, responding to a structured questionnaire. The survey assessed the level of public awareness regarding judicial committees, evaluate the satisfaction with their services, and identify the primary challenges women face in accessing justice through these local mechanisms.

B. Normative Framework for Access to Justice and Judicial Committees in Nepal

Access to justice including legal aid and assistance are closely linked with numerous international human right instruments, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). These human

rights frameworks ensure the fundamental human rights of equal protection under the law and access to justice. The UDHR guarantees that everyone is equal before the law and has the right to a fair and public hearing (United Nations, 1948). Likewise, the ICCPR reinforces guarantee of legal assistance, including free aid for those who can't afford it, for individuals facing criminal charges (United Nations General Assembly, 1966). It also prohibits all forms of discrimination. Likewise, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) mandates legal protection for women, requiring states to provide affordable and effective legal assistance (United Nations, 2015). Likewise, the Sustainable Development Goal (SDG) No. 16 is about promoting peaceful and inclusive societies, providing access to justice for all and building effective, accountable and inclusive institutions at all levels (United Nations General Assembly, 2015). Target 16.3 of this Goal is related to promoting the rule of law at the national and international levels and ensuring equal access to justice for all (Ibid).

At the national level, the Constitution of Nepal establishes a strong legal foundation for women's rights, which is directly linked to their access to justice. Article 18 of the Constitution guarantees the right to equality, that all citizens are equal before the law and are entitled to equal protection of the law without any discrimination. Under Equal Protection Clause, the Constitution has mandated the State to make special provisions for the protection, empowerment, or development of women, which is crucial for redressing historical disadvantages. Likewise, Article 38 provides for the Rights of Women that guarantees the right to a proportional and inclusive representation in all State bodies; the right to equal lineage and property rights; the right to safe motherhood and reproductive health; the right to be protected from all forms of violence, including domestic violence and sexual abuse; and equal pay for equal work.

The Article 20 relating to the right to justice ensures that every person has the right to a fair trial, legal representation, and legal aid. The provision of free legal aid, for those who cannot afford it, is particularly important for women, who are often in a disadvantaged financial position. Article 29 ensures the right against exploitation that prohibits human trafficking, particularly of women and children, and forced labor. This is a crucial provision for protecting women from some of the most severe forms of injustice. Likewise, the Constitution has also ensured social justice that provides for the right to social justice for women and other marginalized groups (Art. 42).

Article 217 of the Constitution of Nepal provides for a three-member judicial committee in each rural municipality and municipality to resolve disputes within their respective jurisdictions. The Committee is to be coordinated by the Vice-Chairperson in a rural municipality and the Deputy Mayor in a municipality, respectively (Art. 273). The other two members are to be elected from among the members of the Village Assembly or Municipal Assembly (Ibid). The Local Government Operations Act, 2017 (2074 BS) has expanded on the constitutional provisions, providing a more detailed framework for the judicial committees' jurisdiction,

procedures, and functions. Section 31 of the Local Government Operations Act, 2017 (2074 BS) specifies the jurisdiction of the judicial committee as follows:

- Disputes related to land boundaries, demarcation lines, irrigation canals, ponds, water distribution, or encroachment on roads and passages;
- Disputes over crop;
- Disputes relating to Muluki Civil Code, including those related to wages, property of lost animals, construction, and disputes concerning maintenance payments as per one's honor and income;
- Issues concerning the local use of water resources, use of public water sources, and the protection of public property;
- Disputes related to grazing, grass, and firewood;
- Disputes between a homeowner and a tenant; and
- others

In addition to resolving disputes, the judicial committee is also responsible for facilitating reconciliation, enforcing its decisions, and maintaining proper records.

C. Women's Access to Justice and The Role of the Local Judicial Committee

Judicial Committee is not court; there are three tiers of courts in Nepal *i.e.* Supreme Court, High Court, and District Court (Constitution of Nepal, Art. 127). The Provision reads as “In addition to the courts under clause (1), judicial bodies may be formed at the local level to try cases under law or other bodies as required may be formed to pursue alternative dispute settlement methods ”(Ibid). Thus, as per the provision of this article, there are local Judicial Committee as the court like institution at every local level government, not as the Court 9

(Shrestha, 2019, p 37-38). In general, the establishment of judicial committee at local level after adoption of federalism has got satisfactory result (Pokhrel, 2020). Considering the potential role of the Local Judicial Committee, 332 individuals were surveyed in Bagmati Province in the year 2024. Regarding the demographics of the participants, the majority of the population is represented as male, constituting 62.3% of the sample, while females make up 37.0%, and individuals identifying as "Others" are a minority at just 0.6% (Field Survey, 2024). Religiously, Hinduism is the dominant faith among the surveyed population, with a staggering 91.3% identifying as Hindus. Buddhists form a minority at 6.0%, while Muslims and Christians represent even smaller percentages at 1.5% and 1.2%, respectively (Field Survey, 2024).

C.1 Knowledge About the Local Judicial Committee

Regarding the knowledge and information of the Local Judicial Committee, the vast majority of participants, constituting 99.4%, answered affirmatively, indicating that they do know the judicial committee. Conversely, only a very small proportion, 0.6% of participants, indicated that they do not possess knowledge about the judicial committee.

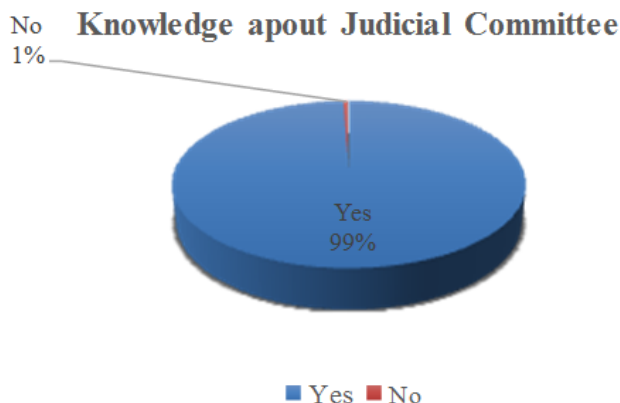


Figure 1. Knowledge About Local Judicial Committee

Source: Field Survey 2024

C.2 Level of Satisfaction with Judicial Services

Regarding the level of satisfaction with judicial services, in this case, 232 participants, constituting 69.9% of the total sample, indicated that they were satisfied with the judicial services they received (Field Survey, 2024). Conversely, 100 participants, comprising 30.1% of the total sample, expressed dissatisfaction with the judicial services. This suggests that a significant portion of the sample had a positive experience with the judicial system (Ibid). However, it is important to note that approximately one-third of the participants expressed dissatisfaction, highlighting areas where improvements may be needed in the delivery of judicial services. The majority of participants rated the performance of committee members positively, with a significant portion attributing ratings of "Fair" (32.5%), "Good" (38.6%), "Very good" (15.4%), and "Excellent" (1.8%). However, a notable minority perceived the professionalism and competence of committee members as lacking, with 11.7% rating it as "Poor." This suggests that while many individuals had positive experiences with committee members, there are still areas where improvements can be made to enhance the overall quality of service delivery. The majority (78.9%) reported positive experiences, indicating that they felt respected and dignified in their interactions with the committee. However, a notable minority (15.4%) reported negative experiences, suggesting instances where individuals may have felt marginalized or disrespected. Additionally, a smaller percentage expressed uncertainty (5.7%), highlighting the need for clearer communication and consistent standards of behavior from committee members to ensure that all individuals feel valued and respected. The data explores participants' awareness of outreach programs aimed at improving women's access to justice. While a significant portion of participants (36.4%) reported being aware of such programs, a notable minority (28.0%) indicated a lack of awareness. Additionally, a considerable percentage (35.5%) expressed uncertainty about their knowledge of these initiatives. This underscores the importance of robust outreach efforts to ensure that individuals are informed about available resources and support services, particularly those aimed at addressing gender-specific barriers to justice.

Table 1. Satisfaction of women with judicial services

Variables (N=332)	Frequency	Percent
Satisfaction with judicial services		
Yes	232	69.9
No	100	30.1
Level of satisfaction (n=232)		
Extremely Satisfied	23	9.91
Moderately satisfied	109	46.98
Satisfied	95	40.95
Neutral	7	3.02
Professionalism and competence of the Judicial Committee members		
Poor	39	11.7
Fair	108	32.5
Good	128	38.6
Very good	51	15.4
Excellent	6	1.8
Treatment with respect and dignity		
Yes	262	78.9
No	51	15.4
Do not know	19	5.7
Awareness of any outreach programs targeted at improving women's access		
Yes	121	36.4
No	93	28.0
Do not know	118	35.5

Source: Field Survey 2024

C.3 Implementation of Judicial Committee Decisions

During the survey, a majority of individuals have encountered situations where the local judicial committee has made decisions relevant to their legal matters. However, a notable minority (36.4%) indicated that they had not experienced such cases, while a small percentage (3.3%) expressed uncertainty about their experience, highlighting the need for clearer communication and awareness-building efforts regarding the role and functions of the judicial committee. Moving on to the implementation of decisions made by the judicial committee, the data reveals a mixed picture. Among the participants who reported experiencing cases where decisions were made, 38.6% indicated that the decisions were fully implemented. This suggests a relatively high rate of successful implementation of judicial committee decisions, indicating the effectiveness of the committee's interventions in resolving legal disputes and facilitating justice.

Table 2. Implementation of Judicial Committee Decisions

Variables	Frequency	Percent
Part of a case where a decision was made by the Local Judicial Committee		
Yes	200	60.2
No	121	36.4
Do not know	11	3.3
Implementation of decision (n=200)		
Fully Implemented	66	33
Partially Implemented	35	17.5
Not Implemented	40	20
On the process of implementation	56	28
Not Applicable (No experience)	7	3.5

Source: Field Survey 2024

During the survey, factors affecting weak implementations were mapped. Procedural issues emerge as the most prominent, with 36.3% of responses attributing weak implementation to challenges related to the process or procedures followed in enforcing decisions. This suggests bureaucratic hurdles, delays in paperwork, or complexities within the legal system hinder the efficient execution of judicial committee rulings. Additionally, political interference is cited as a significant factor, accounting for 18.9% of responses. This indicates external influences that compromise the independence and integrity of the judicial process, leading to compromised outcomes and weakened enforcement of decisions.

Lack of law, another notable factor contributing to weak implementation, is identified in 18.9% of responses. This highlights situations where the absence of clear legal frameworks or legislation governing certain issues poses challenges to enforcement efforts. Moreover, corruption is cited in 10.5% of responses, indicating instances where bribery, nepotism, or other forms of corruption undermine the integrity of the judicial process, leading to compromised decisions and ineffective enforcement of judgments. These factors collectively underscore the complexities and challenges inherent in the implementation of judicial decisions, requiring systemic reforms and robust measures to uphold the rule of law and ensure justice for all members of society. Furthermore, the data point to limitations in enforcement capabilities, with 4.2% of responses highlighting the lack of police power as a contributing factor. Without the authority or power to enforce decisions through law enforcement agencies, the judicial committee faces challenges in ensuring compliance with its rulings, particularly in cases requiring coercive action. Social factors, representing 2.6% of responses, also play a role, indicating challenges stemming from societal attitudes, norms, or dynamics that hinder implementation efforts. These could include cultural resistance, community pressure, or lack of social cohesion, all of which affect the willingness or ability to adhere to legal rulings.

Table 3: Factors responsible for weak implementation

Factors responsible for weak implementation	N	Percent
Lack of Law	36	18.9
Procedural	69	36.3
Political interference	36	18.9
No police power	8	4.2
Corruption	20	10.5
Social	5	2.6
Others	16	8.4

Source: Survey 2024

C.4 Appeals to District Court

The survey revealed that 39.8% of participants have appealed the decision of the Local Judicial Committee before the district court. Conversely, 60.2% of participants indicated that they did not appeal the decision, indicating varying levels of satisfaction or confidence in the initial decision rendered by the Judicial Committee.

Table 4. Appeals to the District Court

Variables	Frequency	Percent
Appealed a decision made by the Judicial Committee to the District Court		
Yes	132	39.8
No	200	60.2
Reason for an appeal to the district court	197	59.3
Dissatisfaction with decision of the Judicial Committee	82	24.7
Procedural obstacles of Judicial Committee	26	7.8
Not sufficient law	9	2.7
Absence of mechanism for proper implementation of the decision of the Judicial Committee	18	5.4
Satisfaction with the person for entire process and outcome		
Very satisfied	3	.9
Satisfied	22	6.6
Neutral	31	9.3
Dissatisfied	15	4.5
Very dissatisfied	2	.6
Do not know	259	78.0

Source: Survey 2024

C.5 Barriers and Obstacles to Access to Justice

The survey highlighted that regarding the kinds of services provided to women, legal counseling emerges as the most prominent service, with 41.0% of participants indicating its availability. Legal counselling serves as a crucial support mechanism, offering women guidance and advice on legal matters, thereby empowering them to navigate the complexities of the legal system. Additionally, legal aid is also widely accessible, with 33.0% of participants reporting its availability. Legal aid programs provide women with financial and legal assistance, ensuring access to legal representation and resources, particularly for those facing financial constraints. Psychosocial support is cited by 19.7% of participants, indicating the recognition of the importance of addressing the emotional and psychological needs of women involved in legal proceedings. Furthermore, referrals to protection homes and shelters are available to a smaller percentage of participants, highlighting the limited availability of safe spaces and protective measures for women in vulnerable situations.

Moving on to the main challenges faced by women in accessing justice, procedural obstacles emerge as the most significant challenge, cited by 37.1% of participants. Procedural hurdles encompass bureaucratic complexities, delays in legal processes, and difficulties in navigating the legal system, all of which hinder women's ability to seek and obtain justice effectively. Legal challenges are also prevalent, with 22.9% of participants identifying legal barriers as a major obstacle. This includes issues such as limited access to legal resources, insufficient legal representation, and complexities in understanding and asserting legal rights. Social challenges, accounting for 12.2% of responses, reflect broader societal attitudes, norms, and dynamics that impede women's access to justice. These may include cultural barriers, stigma, discrimination, and social biases that undermine women's rights and inhibit their ability to seek redress for legal grievances. Financial constraints represent a significant obstacle, cited by 12.4% of participants. Economic barriers, including the high cost of legal services and associated expenses, pose challenges for women, particularly those from marginalized or economically disadvantaged backgrounds. Corruption and involvement of brokers also pose challenges, albeit to a lesser extent, highlighting issues of integrity, transparency, and accountability within the legal system. Additionally, other miscellaneous obstacles, including administrative inefficiencies and lack of awareness about available services, contribute to the overall challenges faced by women in accessing justice.

The data underscore the multifaceted nature of obstacles to access to justice for women, encompassing legal, procedural, social, financial, and systemic challenges. Addressing these barriers requires comprehensive reforms, including measures to streamline legal procedures, enhance legal aid and support services, address societal attitudes and biases, and combat corruption and financial barriers, ultimately ensuring equitable access to justice for all women.

Table 5: Kinds of services provided to women

Kinds of services are provided to women	N	Percent
Legal Counselling	261	78.6
Psychosocial support	125	37.7
Referral to protection home	24	7.2
Shelter	2	.6
Others	14	4.2
Legal Aid	210	63.3
Main challenges		
Legal	148	45.4
Procedural	240	73.6
Social	79	24.2
Financial	80	24.5
Corruption	55	16.9
Broker	25	7.7
Others	20	6.1

C.6: Marginalized communities facing additional difficulties in accessing justice through the Judicial Committee

According to the survey data, 34.3 percentage of participants indicated that marginalized communities face additional difficulties in accessing justice through the Judicial Committee. This suggests that a significant portion of individuals perceive that marginalized groups encounter unique obstacles or barriers when interacting with the Judicial Committee. These obstacles may stem from various factors such as socio-economic disadvantages, cultural marginalization, language barriers, or systemic biases that disproportionately affect marginalized communities. Conversely, 65.7 percentage of participants indicated that marginalized communities do not face additional difficulties in accessing justice through the Judicial Committee. This suggests that while a sizable proportion of individuals recognize the challenges faced by marginalized groups, there is also a considerable portion who may perceive the Judicial Committee's services to be equally accessible and responsive to all members of society, regardless of their background or identity.

The data underscore the importance of considering the specific needs and challenges faced by marginalized communities in accessing justice. While some participants acknowledge the additional difficulties encountered by marginalized groups, others may perceive the Judicial Committee's services to be equitable and inclusive. Addressing the needs of marginalized communities requires targeted interventions and policies aimed at promoting access to justice, combating discrimination, and ensuring that legal mechanisms are accessible and responsive to the diverse needs of all individuals within society.

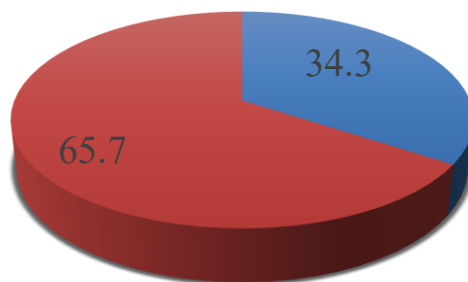


Figure 2. Difficulty faced by marginalized communities in accessing to justice
Source: Field Survey 2024

D. Conclusion

Considering the fact that awareness of the judicial committee is high, this is a positive starting point for improving access to justice. From the perspective of women's access to justice, the Local Judicial Committee has provided services like legal counseling and legal aid. Psychosocial support is also available to a smaller but notable extent and referrals to protection homes and shelters are less common. On the other hand, the biggest obstacle for women is procedural hurdles, which include bureaucratic delays and the complexity of the legal system. Other significant challenges are legal barriers and social challenges. Financial constraints also remain a major issue. Likewise, there is a notable difference in perception regarding how the judicial committee serves marginalized groups.

In conclusion, it is apparent that the judicial committee is recognized and largely perceived as an effective tool for providing justice at the local level, with high awareness. However, the data also reveals critical areas for improvement, particularly in addressing procedural and financial barriers for women, enhancing the professionalism of committee members, and ensuring that the needs of marginalized communities are met without discrimination.

References

- Constitution of Nepal
- Local Level Operation Act, 2017
- Bihar Panchayat Raj Act, 2006
- UNDP (2004). Access to Justice: Practice Note.
- Nepal Law Society and The Asia Foundation (n.d.). *Judicial Committees in Nepal: A Closer Look*.
- United Nations Committee on the Elimination of Discrimination against Women. (3 August 2015). General recommendation No. 33 on women's access to justice. CEDAW/C/GC/33.

- United Nations Committee on the Elimination of Discrimination against Women. (3 August 2015). General recommendation No. 33 on women's access to justice. CEDAW/C/GC/33.
- United Nations General Assembly. (10 December 1948). Universal Declaration of Human Rights, 217 A (III).
- United Nations General Assembly. (16 December 1966). International Covenant on Civil and Political Rights. Treaty Series, vol. 999.
- United Nations General Assembly. (2015). Transforming our world: the 2030 Agenda for Sustainable Development. A/RES/70/.
- Austral, Gregoria. A Guide to the Katarungang Pambarangay System. Philippine.
- Dahal, D. R., and Bhatta, C.D (2008). *The Relevance of Local Conflict Resolution Mechanisms for Systemic Conflict Transformation in Nepal*.
- International Commission of Jurists and South Asian Association for Regional Cooperation in Law (SAARC Law Nepal) on the “*Role of Justice Sector Actors on Enhancing Women's Access to Justice in Nepal*” held on 21 September 2022 in Kathmandu. <<https://www.icj.org/nepal-local-judicial-committees-can-help-enhance-womens-access-to-justice/>> Accessed on 10/3/2022.
- Pradhan, Krishnaman Pradhan, <<https://kathmandupost.com/opinion/2018/02/07/judicial-committees>> Accessed on 12/2/2022.
- Pokhrel, Bimal Prasad ‘Judicial Committees working as local court’, <<https://english.khabarhub.com/2020/28/144016>> Accessed on 12/2/2022.
- Strong, C.F (1966). *Modern Political Constitutions*, London: Sidgwick and Jaction, ELBS.
- Vaidya, T.R. and Manandhar, T.R (1985). *Crime and punishment in Nepal: A historical perspective*.
- Sage, Caroline and Woolcock, Michael Breaking Legal Inequality Traps: New Approaches to Building Justice Systems for the Poor in Developing Countries, (2005).
- Sharma, Satish K “Judicial Mandate of the Local Level and Mediation”, Kantipur National Daily, published on 1st Jestha, 2075
- Shrestha, Tejman ‘Judiciary’ in Nepal Human Rights Year Book, 2019