

Inquiry Into the Preservation of Cultural and Natural Heritages in Nepal

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1. Introduction

The meaning of heritage denotes something immaterial, such as a practice or custom, which is passed from one generation to another: a heritage of volunteerism; a rich inheritance of storytelling; a legacy of philosophical thought; the family tradition of going for a walk on Thanksgiving. Heritage is such like, inheritance, legacy or tradition. Cultural heritage is the legacy of physical artifacts and intangible attributes of a group or society that is inherited from past generations.¹ When discussing about the cultural and Natural heritage of Nepal, Nepal has long history of development. The Himalayan country it is located on South Asia. Nepalese border has been connected south east and west to India and north to the China.² Kathmandu Durbar Square, which is in the heart of the capital city of Nepal.³ UNESCO has listed four World Heritage Sites in Nepal. Kathmandu Valley and Lumbini (the birth place of Lord Buddha) are listed as UNESCO Cultural World Heritage Sites same like Chitwan National Park and Sagarmatha National Park are listed as UNESCO Natural World Heritage Site.⁴ Nepal has many natural

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¹ Cultural heritage <https://en.wikipedia.org/wiki/Cultural_heritage> access November 22, 2018)

² 'Statistical Year Book Nepal -2017' (Government of Nepal National Planning commission Central Bureau of Statistics) <<http://cbs.gov.np/image/data/2018/Statistical%20Year%20Book%202017.pdf>> (access November 14, 2018)

³ 'UNESCO HERITAGE SITES.

⁴ Ibid

and cultural heritages which haven't been recognized yet because of lack of promotion. It is one of the big challenges of heritage prospective in Nepal. Nepal has been facing the challenge of protection.

A large proportion of tourism in developing countries is nature-based tourism, in particular, tourism in parks and protected areas, a significant number of which are located in mountainous regions.⁵ Lack of awareness is a major challenge for protection and promotion of cultural heritage.⁶ In the context of Nepal First promulgated in 1956 and revised several times afterwards, The Ancient Monuments Preservation Act is the main legal document on heritage conservation in Nepal. It is no surprise that this law puts heavy emphasis on "ancient" and "archaeological". As the old saying refers the Kathmandu valley as the "Nepal", this act truly limits itself to the heritage in Kathmandu valley. Therefore, the first and foremost challenge of heritage policy in Nepal is to expand the legal provision to other regions. For expanding the conservation legislations to other regions, the policy needs a framework on administrative coordination and law enforcement in sites all over the country.⁷ This article also deals with the non-listed world heritage in UNESCO world heritage site also.

2. World Heritage Convention

UNESCO is the leading international organization comprised of Member states that has been at the forefront of global cultural heritage issues. A major endeavor of this organization was the convention concerning the protection of the world cultural and natural heritage an international treaty that was adopted during the 17th session of its General Conference in November 16, 1972. Basically, the treaty was the culmination of convergence between two international movements that focused on dangers to cultural sites and conservation of nature. The overall mission of the international treaty seeks to encourage the identification, protection and preservation of cultural and natural heritage around the world considered to be of outstanding value to humanity.⁸ Currently 180 countries have ratified the convention.⁹

⁵ Sanjay K. Nepal, 'Tourism in Protected Areas The Nepalese Himalaya' (2000-Elsevier Science) <www.elsevier.com/locate/atoures>(access November 15, 2018)

⁶ Heba Mahmoud Saad Abdel Naby, 'Problems and Challenges of Cultural Heritage in Alexandria, Egypt' International Journal of Culture and History, Vol. 3, No. 3, 177, (September 2017)

⁷ Neel Kamal Chapagain, 'Heritage Conservation in Nepal: Policies, Stakeholders and Challenges' (02 August 2016, Research Get) <<https://www.researchgate.net/publication/33024204>>(accessed on November 11, 2018)

⁸ Brijesh Thapa 'Issues And Challenges of World Heritage Sites in Nepal' (Conference paper 'World Heritage Global Challenges, local Solutions, Iron bridge Institute, University of Birmingham), 23. (4-7 May, 2006)

⁹ Ibid

World heritage Committee has been decide the cultural and natural heritage of the world. But minimum one Criterion needs to fulfill for Selection. These criteria have been following¹⁰;

UNESCO Heritage (Cultural and Natural) Selection Criteria

Criteria No	Selection criteria
i	to represent a masterpiece of human creative genius;
ii	to exhibit an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town-planning or landscape design;
iii	to bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared;
iv	to be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history;
v	to be an outstanding example of a traditional human settlement, land-use, or sea-use which is representative of a culture (or cultures), or human interaction with the environment especially when it has become vulnerable under the impact of irreversible change;
vi	to be directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance. (The Committee considers that this criterion should preferably be used in conjunction with other criteria);
vii	to contain superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance;
viii	to be outstanding examples representing major stages of earth's history, including the record of life, significant on-going geological processes in the development of landforms, or significant geomorphic or physiographic features;

¹⁰ 'The Criteria for Selection' <http://whc.unesco.org/en/criteria/>>(accessed on November 10, 2018)

ix	to be outstanding examples representing significant on-going ecological and biological processes in the evolution and development of terrestrial, fresh water, coastal and marine ecosystems and communities of plants and animals;
x	to contain the most important and significant natural habitats for in-situ conservation of biological diversity, including those containing threatened species of outstanding universal value from the point of view of science or conservation.

(a) World Heritage Site Inscription Criteria

The World heritage Site of UNESCO has categories different natural and Cultural heritage, date of 2002 and 2005¹¹. which are as follows:

Operational Guidelines (year)	Cultural criteria						Natural criteria			
2002	i	ii	iii	iv	v	vi	i	ii	iii	iv
2005	i	ii	iii	iv	v	vi	viii	ix	vii	x

3. Type of Heritage in the world

Discussing about the Nepalese heritage, first it is disclose about the world heritage. Here, heritage has been divided in to three types. USESCO also recognized the three types of world heritage. It is related on the whole scenario of the world. The type of heritage is given below;

(I) Cultural heritage

Cultural heritage is divided in to two categories¹² Tangible and Intangible cultural heritage. Tangible cultural heritage can be defined as physical objects of historical significance left over from the past.¹³

Tangible cultural heritage has been divided three categories;

- Movable cultural heritage (paintings, sculptures, coins, manuscripts)
- Immovable cultural heritage (monuments, archaeological sites, and so on)
- underwater cultural heritage (shipwrecks, underwater ruins and cities)

Intangible cultural heritage is like, oral traditions, performing arts, rituals, the United Nations Educational, Scientific and Cultural Organization, 2003 has defied Intangible cultural heritage is the practices, representations,

¹¹ UNESCO World Heritage Site of Criteria

¹² Elizabeth Bennett, 'Challenges to Cultural Heritage Interpretation and Preservation at the *Faleomavaega, the Museum of Samoa*' at 1, (2015) < https://digitalcollections.sit.edu/cgi/viewcontent.cgi?article=3251&context=isp_collection > (access November 22, 2018)

¹³ Ibid

expressions, knowledge, skills-as well as the instruments, objects, artifacts and cultural spaces, associated there with-that communities, groups and, in some cases, individuals recognize as part of their cultural heritage.

(II) Natural heritage

Natural heritage refers to the sum total of the elements of biodiversity, including flora and fauna, ecosystems and geological structures.¹⁴ Heritage is that which is inherited from past generations, maintained in the present, and bestowed to future generations. Natural Sites with cultural aspects such as cultural landscapes, physical, biological or geological formations too.

(III) Heritage in the event of armed conflict.

Analysis of the Nepalese heritage

Nepalese heritage listed in UNESCO World Heritage Site

Nepal ratified the Convention in June 20, 1978. The UNESCO world heritage site has been listed four site of Nepal. The site has been recognized two is cultural heritage and other two is natural heritage. These are in the following list;

(I) Cultural Heritage¹⁵

- (a) Kathmandu Valley
- (b) Lumbini the Birth place of the Lord Buddha

(II) Natural heritage¹⁶

- (a) Sagarmatha National Park
- (b) Chitwan National park

(I) Cultural Heritage in Nepal:

Cultural heritage is that heritage which has been fulfilling the UNESCO Site Inscription Criteria year 2002 and 2005; criteria number (i), (ii), (iii), (iv), (v) and (vi). Nepal has listed two cultural heritages in UNESCO world cultural heritage site. These are describing given below;

(a) Kathmandu Valley:

The Kathmandu Valley is located on Province No.3.¹⁷ It has listed in UNESCO World heritage site in 1979.¹⁸ It has fulfilled the UNESCO cultural heritage selection criteria no. (iii), (iv) and (vi).¹⁹ The cultural heritage of the Kathmandu

¹⁴ 'Natural heritage' <https://en.wikipedia.org/wiki/Natural_heritage>(accessed November 9, 2018)

¹⁵ 'World Heritage List' <<http://whc.unesco.org/en/list/>> (access November 24, 2018)

¹⁶ Ibid

¹⁷ CONSTITUTION OF NEPAL, Schedule No.4, (2015).

¹⁸ THAPA supra note 8 at 25

¹⁹ 'Kathmandu Valley' <<http://whc.unesco.org/en/list/121>> (access November 16, 2018)

Valley is illustrated by seven groups of monuments and buildings. Which has been display historic and artistic achievements for which the Kathmandu Valley. The seven include the Durbar Squares of Hanuman Dhoka (Kathmandu), Patan and Bhaktapur, the Buddhist stupas of Swayambhu and Baudhanath and the Hindu temples of Pashupati and Changu Narayan.²⁰

- **Kathmandu Durbar Square:** The historical grounds at the Kathmandu Durbar Square, this is in the heart of the capital city, and experiences the origins of how Nepal was unified.²¹ Another name for Kathmandu Durbar Square is Hanuman Dhoka Palace. The latter is more of a popular name these days. This is the ancient royal courtyard of the Nepalese royalty. There are many temples which are dedicated to different Hindu deities. Most of the buildings here were constructed from the 15th – 18th century. The palace is named after the Hindu god Hanuman, who is regarded as the protector of the entire palace. Under Kathmandu Valley heritage site it has covering seven sites. These are listed in UNESCO World Heritage Site list, which are as follows;
- **The Pashupatinath Temple:** It has been on the World Heritage list since 1979.²² It is considered one of the holiest places for the Hindus. It is located 6 km east from Kathmandu; the structure is a two-storey building and is built in pagoda style. The site is a collection of temples, ashrams, images and inscriptions. The structures in this perimeter were raised over the centuries and lie right beside the banks of the holy Bagmati River.
- **Swyambhunath Stupa:** It is believed to be around 2500 yearsold.²³ It is considered probably one of the oldest monuments making its name in the list. The structure represents the four elements of earth, fire, wind and water. The 13 rings of the spire symbolize the 13 steps of the ladder leading to Nirvana. There are 365 steps passing through which you will reach the holy site of Swayambhunath stupa.
- **The Baudhanath Stupa:** It is one of the oldest and biggest monuments built in the in Kathmandu. The structure was built around the 5th century A.D.²⁴ it is a 36 m high unique three level mandala style structure. People

²⁰ Ibid

²¹ 'Naturally Nepal' <<https://www.welcomenepal.com/places-to-see/unesco-world-heritage-sites.html>> (access November 23, 2018)

²² Ten UNESCO World Heritage Sites of Nepal' <<https://www.mountainmarttreks.com/blog/10-unesco-world-heritage-sites-Nepal/>>(access November 23, 2018)(access November 2, 2018)

²³ Ibid

²⁴ Id

following Buddhist religion flock in thousands during the Buddhist festivities. This monument is more or less similar to the Swoyambhunath Stupa.

- **The Patan Durbar Square:** It is located on Lalitpur District. It is situated only 8 km south-east of Kathmandu city. This city is one of the oldest cities in Kathmandu valley. The city was founded in the 3rd century. It is an open museum of the finest Newari craftsmanship. The Hindu and Buddhist monuments are scattered around this ancient royal courtyard.²⁵
- **The Bhaktapur Durbar square:** It is located on Bhaktapur District. It is known as Bhadgaon, is a unique city located 13 km east of Kathmandu. The complex consists of at least four distinct squares. They are namely Durbar Square, Taumadhi Square, Dattatreya Square and Pottery Square. The collective distinct squares are known as the Bhaktapur Durbar square.²⁶
- **Changu Narayan Temple:** It is one of the Hindu religious Temple it has located on Bhaktapur district. The ancient Hindu temple of Changu Narayan is located on a high hilltop that is also known as Changu or Dolagiri. This historic structure was built around the 3rd century A.D.²⁷ The area was surrounded by forest with champak tree and a small village known as Changu village. It is located 12 km east of Kathmandu and few miles north of Bhaktapur.

(b) Lumbini the Birth Place of the Lord Buddha

Lumbini is located on the Rupandehi District, Province No. 5 of Nepal.²⁸ United Nations and carried out by Prof. Kenzo Tange between 1972 and 1978.²⁹ It has listed in World UNESCO cultural heritage site in 1997.³⁰ It has fulfilled the UNESCO cultural heritage selection criteria no (iii) and (vi). It has tested under criteria no (iii), As the birthplace of the Lord Buddha, testified by the inscription on the **Asoka pillar**, the sacred area in Lumbini is one of the most holy and significant places for one of the world's great religions.³¹ Same like criteria no (vi), The archaeological remains of the **Buddhist viharas (monasteries) and stupas (memorial shrines)** from the 3rd century BC to

²⁵ Id

²⁶ Id

²⁷ Id

²⁸ THE CONSTITUTION OF NEPAL, Schedule No.4, (2015)

²⁹ 'Lumbini, the Birthplace of the Lord Buddha' <<http://whc.unesco.org/en/list/666>> (access November 5, 2018)

³⁰ THAPA, supra note 8, 25

the 15th century, provide important evidence about the nature of Buddhist pilgrimage centres from a very early period.

The Lord Buddha was born in 623 BC.³²The sacred area of Lumbini located in the Terai plains of southern Nepal, testified by the inscription on the pillar erected by the Mauryan Emperor Asoka in 249 BC. Lumbini is one of the holiest places of world's great religions, and its remains contain important evidence about the nature of Buddhist pilgrimage centers from as early as the 3rd century BC.³³The complex of structures within the archaeological conservation area includes the Shakya Tank; the remains within the Maya Devi Temple consisting of brick structures in a cross-wall system dating from the 3rd century BC to the present century and the sandstone Ashoka pillar with its Pali inscription in Brahmi script. Additionally there are the excavated remains of Buddhist viharas (monasteries) of the 3rd century BC to the 5th century AD and the remains of Buddhist stupas (memorial shrines) from the 3rd century BC to the 15th century AD. The site is now being developed as a Buddhist pilgrimage centre, where the archaeological remains associated with the birth of the Lord Buddha form a central feature.³⁴This is proved the Buddha was in Nepal. This is prove that the Lord Buddha born in Nepal. Still everyone has no idea about Buddha birth place. Some of them still thinking Buddha birth place is India.

(II) Natural heritage

Cultural heritage is that heritage which has been fulfilling the UNESCO Site Inscription Criteria year 2002 and 2005; criteria number (i), (ii), (iii), (iv), (vii), (viii), (ix) (x). Any one of the criteria will fulfilled that site can be listed in World UNESCO Site, Natural heritage list. Nepal has two Natural sitelisted in UNESCO world natural heritage list. These are describing given below;

(a) Sagarmatha National Park

Sagarmatha National Park is located on Province on 1 and Solu-Khumbu district of Nepal.³⁵It has fulfilled the UNESCO natural heritage selection criteria no (vii).³⁶It was recognized by UNESCO with the inscription of the park as a world heritage site in 1979.³⁷Sagarmatah National Park is Natural heritage

³¹ Lumbini, Birth place of Lord Buddha at 31

³² THAPA, supra note 8, 25

³³ 'Lumbini' at 31

³⁴ Id

³⁵ THE CONSTITUTION OF NEPAL Schedule no.4, (2015).

³⁶ 'Sagarmatha National Park' <<http://whc.unesco.org/en/list/120>>(access November 6, 2018)

³⁷ THAPA, supra note 8, 25

listed in UNESCO. Including the highest point on the Earth's Surface, Mount Sagarmatha (Everest; 8,848 m) and an elevation range of 6,000 m Sagarmatha National Park (SNP) covers an area of 124,400 hectares in the Solu-Khumbu district.³⁸ An exceptional area with dramatic mountains, glaciers, deep valleys and seven peaks other than Mount Sagarmatha over 7,000 m the park is home to several rare species such as the snow leopard and the red panda. A well-known destination for mountain tourism SNP was gazetted in 1976 and with over 2,500 Sherpa people living within the park has combined nature and culture since its inception.

The area is home to several rare species such as the snow leopard and the red panda.³⁹ Encompassing the upper catchment of the Dudh Kosi River system the boundaries of the property ensure the integrity of its values. The property's Northern boundary is defined by the main divide of the Great Himalayan Range, which follows the International boundary between Nepal and the Tibetan Autonomous Region of the People's Republic of China.

Sagarmatha National Park was established on July 19, 1976 under the National Parks and Wildlife Conservation Act and is managed by the National Park and Wildlife Conservation Office, Department of National Parks and Wildlife Conservation, Ministry of Forests., Government of Nepal. Effective legal protection remains in place under the National Park and Wildlife Protection Act 1973 and the Himalayan National Park Regulations 1978. Most of the park 69 per cent comprises barren land above 5,000m with 28 per cent being grazing land and nearly 3 per cent forested, this combined with the resident Sherpa population, who are reliant on subsistence agro-pastoralism provides a number of management challenges.

(b) Chitwan National Park

Chitwan National Park is located at Province No. 3, Chitwan District of Nepal.⁴⁰ It has fulfilled the UNESCO natural heritage selection criteria no (vii), (ix), (x).⁴¹ Nepal established Royal Chitwan National Park in the central Terai as the nation's first national park.⁴² It was recognized by UNESCO with the inscription of the park as a world heritage site in 1984.⁴³ Chitwan has a

³⁸ Ibid

³⁹ Ibid

⁴⁰ CONSTITUTION OF NEPAL, Schedule no.4, (2015)

⁴¹ Chitwan National Park < <http://whc.unesco.org/en/list/284>>(access November 8, 2018)

⁴² Robert B. Keiter, 'Preserving Nepal's National Parks: Law and Conservation in the Developing World', *Ecology Law Quarterly*, 592, (1995)

⁴³ THAPA *Supra* note 8

particularly rich flora and fauna and is home to one of the last populations of single-horned Asiatic rhinoceros and is also one of the last refuges of the Bengal Tiger. Chitwan National Park (CNP), established in 1973, was Nepal's first National Park. Located in the Southern Central Terai of Nepal, it formerly extended over the foothills, the property covers an area of 93,200 hectares, extends over four districts: Chitwan, Nawal Parasi, Parsa and Makwanpur.⁴⁴ It is also prime habitat for the Bengal Tiger and supports a viable source population of this endangered species. Exceptionally high in species diversity, the park harbours 31 per cent of mammals, 61 per cent of birds, 34 per cent of amphibians and reptiles, and 65 per cent of fishes recorded in Nepal. Additionally, the park is famous for having one of the highest concentrations of birds in the world (over 350 species) and is recognized as one of the worlds' biodiversity hotspots as designated by Conservation International and falls amongst WWFs' 200 Global Eco-regions.

Chitwan National Park has a long history of protection dating back to the early 1800s. It has been designated and legally protected under the National Parks and Wildlife Conservation Act, 1973. The Nepalese Army has been deployed for park protection since 1975. In addition, Chitwan National Park Regulation, 1974 and Buffer Zone Management Regulation, 1996 adequately ensure the protection of natural resources and people's participation in conservation as well as socio-economic benefits to people living in the buffer zone. This makes Chitwan National Park an outstanding example of Government-Community partnership in biodiversity conservation. The World Heritage values of the Park have been enhanced as the population of Greater One-horned Rhinoceros and Bengal Tiger have increased (Rhinoceros - around 300 in the 1980s to 503 in 2011 and Tigers 40 breeding adults in the 1980s to 125 breeding adults in 2010). While no major changes in the natural ecosystem have been observed in the recent years the grasslands and riverine habitats of the park have been encroached by invasive species such as *Mikaniamacrantha*.

4. Nepalese cultural and Natural Heritage (Non-listed in UNESCO World Heritage Site)

Nepal has very rich in historical, cultural and natural heritage property. These are many years long historical property. Cultural property these are including tangible and intangible, and natural heritage too. These are following

⁴⁴ *ibid*

(I) **Gorkha Darbar:** It is located on province no 4, Gorkha District of Nepal.⁴⁵ History of Gorkha Darbar is more than 500 years long.⁴⁶ An ambitious Gorkha King named Prithvi Narayan Shah embarked on a conquering mission that led to the defeat of all the kingdoms in the valley (including Kirtipur which was an independent state) by 1769. Instead of annexing the newly acquired states to his kingdom of Gorkha, Prithvi Narayan decided to move his capital to Kathmandu establishing the Shah dynasty which ruled unified Nepal from 1769 to 2008.

It will meet UNESCO cultural heritage selection criteria, if it will test. But still it has not process by concern authorities.

The history of the Gorkha state goes back to 1559 when Dravya Shah established a kingdom an area chiefly inhabited by Magars.⁴⁷

The list of King from Dravya Shahto PrithviNayayan Shah⁴⁸

Name of King	Father's	Date of Ruled	Lifespan
Dravya Shah	Yasho Brahma Shah (King of Lamjung)	1559-1570	1570
Purendra Shah	Dravya Shah	1570-1605	1605
Chatra Shah (First son of Purendra Sha)	Purendra Shah	1605-1609	1609
Ram Shah (Second son of Purendra Sha)	Purendra Shah	1609-1633	1636
Dambar Shah	Ram Shah	1633-1645	1645
Krishna Shah	Dambar Shah	1645-16-61	1661
Rudra Shah	Krishna Shah	1661-1673	1673
Prithivipati Shah	Rudra Shah	1673-1716	1716
Narabhupal Shah	Grand Son of Prithivipati Shah and Prince Birbhadra Shah	1716-1743	1743
PrithviNarayna Shah	Narabhupal Shah	1743-1768	1775

When we are discussing about the Kathmandu Valley, first we need to know about the Gorkha, Prithvi Narayan Shah was a last ruled king of Gorkha. He claimed to be a Gorkhali monarch of Rajput origin. Prithvi Narayan Shah is credited for starting the campaign for the unification of Nepal. He was the ninth generation descendant of Dravya Shah (1559–1570), the founder of the ruling house of Prithbinarayan. Prithvi Narayan Shah succeeded his

⁴⁵ 'Schedule' above n 19

⁴⁶ 'History Of Nepal' <https://mofa.gov.np/about-nepal/history-of-nepal/>>(access November 24, 2018)

⁴⁷ Ibid

⁴⁸ Department of Archeology Department, Nepal

father, King Nara Bhupal Shah, to the throne of the Gorkha Kingdom in 1743, at the age of 20. He was marriage with princes of Nuwakot. He was unified all small principalities and petty kingdoms and he made the modern Nepal.

Let King Prithivi NarayanSha was stated some Divya Upadesh

- This is not the nation gained by my trifle efforts, this is the garden of all kinds of flowers, and may all be aware of this.
- If the people are capable then the palace will also remain stronger.

It has not listed in the UNESCO world heritage site in till date. It is one of the examples of Nepal. So it is needed to promote in the world.

Above mentioned evidence proves and fulfills the world cultural heritage selection criteria. But it need to test, Lake of promotion and protection, it has not introducing in the word cultural heritage.

(II) Ram Janaki Temple of Janakpur

It is located on Province No 2, Dhanusa District of Nepal.⁴⁹ Ram Janaki Temple as the Birth Place of Goddess Sita for Hindu faithful, the Ram Janaki Temple is one of the most holy places in Nepal. Vedic literature states that the current Ram Janaki Temple found in the city of Janakpur is seated on the site where the Goddess Sita, who is partner of Lord Rama, was born. Ram and Sita married anniversary is commemorated on a yearly basis and this festival are marked all over Nepal. Ram Janaki Temple has relics of the 11th and 12th centuries and its architecture belongs to a later period.⁵⁰ In the context of Nepal Gorkha Darbar, Janaki Temple is short example of Cultural heritage. Here, many cultural and natural heritage is going to destroyed cause of lack of protection and promotion, i.e. Nuwakot Darbar, Pokhara Gupha and Fewa Tal, Muktinath Temple and Manakamana Temple etc.

5. Constitutional and Legal prospects of related Cultural and Natural heritage in Nepal

5.1 Constitution provisions of Nepal

The Constitution of Nepal has given high priority to cultural heritage; it is mansion in fundamental right part.⁵¹ But it is not sufficient for the protection

⁴⁹ THE CONSTITUTION OF NEAPL, 'Schedule 4, (2015)

⁵⁰ 'Ram Janaki Temple, a Historical and religious Site in Dhanushadham' <<http://www.simriknepaltreks.com/tours/nepal-religious-tour/janaki-temple/>>(access November 24, 2018)

⁵¹ THE CONSTITUTION OF NEPAL, Art. 32,{ Paragraph (3) Every Nepalese community residing in Nepal shall have the right to preserve and promote its language, script, culture, cultural civilization and heritage.}(2015)

and promotion. The constitution of Nepal 2015 has mansion fundamental rights and duties from article 16 to 48. The constitution has incorporate many right for people so it cultural right has no more promotion because there has many rights which has related on peoples dally life, i.e. freedom, life, food, environment, Social security, health and so on.

Also the policies of the state are also highlight it.⁵²To protect and develop languages, scripts, culture, literature, arts, motion pictures and heritages of various castes, tribes, and communities on the basis of equality and co-existence, while maintaining the cultural diversity of the country.

To develop eco-friendly tourism industries as an important base of national economy by way of identification, protection, promotion and publicity of the ancient, cultural, religious, archaeological and natural heritages of Nepal, to make environment and policy required for the development of tourism culture, and to accord priority to local people in the distribution of benefits of tourism industries.

5.2 Laws related to heritage of Nepal

- Monuments Preservation Act (1956) with later amendments (1988)
- Lumbini Development Trust through
- Lumbini Development Trust Act (1985)-amendment 2003
- Lumbini Monastic Zone bylaws (2002).
- Local Self-Governance Act 1999
- Town Development Act 1988
- Local Administration Act 1971,
- Village Development Act 1991
- Physical Planning & Administration; Land (Survey & Measurement) Act 1961
- Land Revenue Act 1977
- Land Acquisition Act 1977
- Environmental Protection Act 1997 for Environment
- Forest Protection Acts 1961 & 1967
- Forest Act 1993 for Forestry
- Tourism Act 1978, Tourism Board Act for Tourism (Weise, 2006)

⁵² THE CONSTITUTION OF NEPAL, 2015, Art. 51, {Paragraph (c 2) states to carry out studies, research works, excavation and dissemination for the protection, promotion and development of ancient, archaeological and cultural heritages, (4) to focus on the development of arts, literature and music which form national heritages},

6. Department of Archaeology in Nepal

It was established in 1953 A.D. under the Government of Nepal. This is organization for the archaeological research and protection of the cultural heritage of the country. Protection and maintenance of archaeological sites, ancient monuments including remains of national importance, museum and archive management are the main concern of Department of archaeology. Department of archaeology also regulate all archaeological activities in the country as per the provision of the 'Ancient Monument Preservation Act, 2013' (A.D. 1956).⁵³ Likewise, the act also provides ample provisions to protect and preserve any individual monuments, group of monuments, sites and even vernacular edifices located throughout the country either private or public having archaeological, historical, artistic and aesthetic values. This act has authorized the Department of Archaeology as a principal governmental authority to protect and preserve the vast cultural heritage of the country.

Department of Archaeology is the main authority of protection and cultural heritage in Nepal but in the high policy level concern ministry should be guided in here. From 1952 to till date is department has been working different ministry. It can't guide properly because the policy level should be changed. It is one of the problem of protection and promotion of cultural and natural heritage in Nepal.

The Department of Archaeology is working under the following Ministries since its established date 1953 to till date⁵⁴

Date	Leading Ministries
2053-1981	Ministry of Education
1981-1995	Ministry of Education and culture
1995-200	Ministry of Youth, sports and culture
2000-2008	Ministry of culture, tourism and Civil Aviation
2008-2009	Ministry of culture and State Reconstructing
2009-2011	Ministry of Federal Affairs, Constituent Assembly, Parliamentary Affairs and Culture
2011-till date	Ministry of Culture, Tourism and Civil Aviation

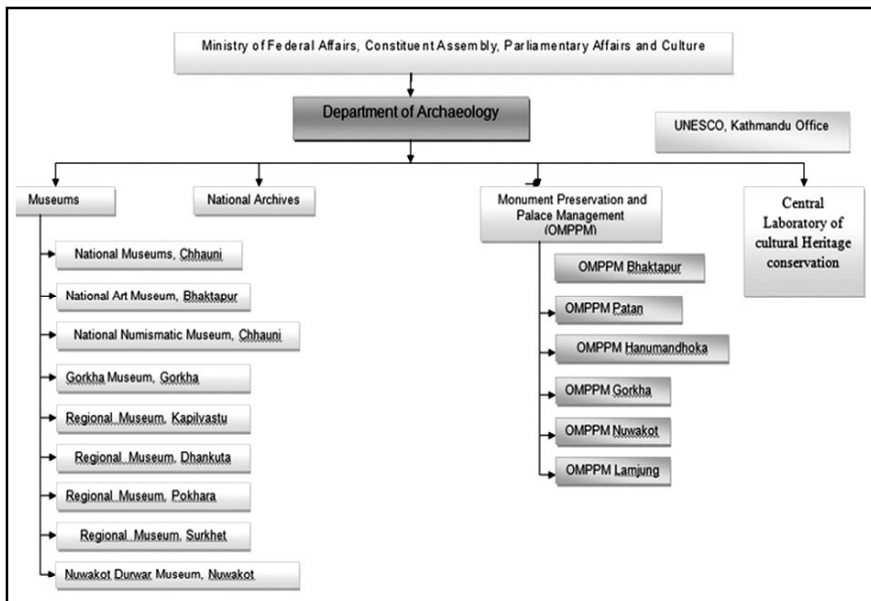
⁵³ Francesco Bandarin, 'Department of Archaeology' < <http://www.doa.gov.np/>>(accessed on November 20, 2018)

⁵⁴ Department of Archaeology

This record has been shows that the government of Nepal has change the policy each and every time. It directly affects the protection and promotion of national heritage. Because policy maker and implementing body will be changed it did not proper coordination.

The aims of this department are: Preservation and protection of monuments and archaeological sites, Conduct archaeological exploration and carryout archaeological excavation and publish the report, Conduct research activities on Nepalese history, culture and archaeology, Establish and enhance the museums, Protection, preservation and management of the World Cultural Heritage Sites of Nepal, Prepare and publish the inventory of the cultural heritage, Control the illicit export and import of the movable cultural property, Provide technical and financial assistance to the local people and agencies for the monument conservation, Raise the awareness for the protection and promotion of the cultural heritage.⁵⁵ It is the mission of the department it has doing some work, but the lacks of resources and lacks of policy coordination it doesn't succeed for protection and promotion of the heritage in Nepal without coordination

Organization Chart of Department of Archaeology⁵⁶



⁵⁵ Ibid

⁵⁶ *Department of Archaeology, Nepal*

7. Challenges for Protection of Cultural and Natural Heritage of Nepal

- **Natural Disaster :** Natural Disaster is main challenge of protection cultural and natural heritage in Nepal. A strong (7.8) earthquake hit Nepal in the area near Barpak, a mountain village between capital Kathmandu and tourist town Pokhara. The earthquake was followed by many powerful aftershocks and a very powerful one (6.7) hit Nepal on Sunday April 26, 2015.⁵⁷ Many (historic) buildings collapsed, temples have been ruined, roads destroyed. Nearly 10000 deaths in Nepal. The quake was followed by more than 430 aftershocks and another huge earthquake (6.8) on May 12, 2015.⁵⁸ So this is the cause major challenge for protection of Nepalese heritage. Compression cultural heritage before and after earthquake 2015 in Nepal. Left side is Maju Deval and Right is Dharahara located in Kathmandu Valley.
- **Flood and Climate Change:** The history of the planet has been characterized by frequent changes in climate. During the twentieth century, the average global temperature increased by 0.6 °C. This increase is likely to have been the largest of any century during the past 1,000 years. According to the Intergovernmental Panel on Climate Change (IPCC), 'there is new and stronger evidence that most of the warming observed over the last fifty years is attributable to human activities'.⁵⁹ This is the big problem for protecting Sagarmatha National Park.
- **Lack of intergovernmental coordination:**⁶⁰ As Nepal moves into this new era of community-based conservation, lack of intergovernmental coordination continues to hamper its nature preservation efforts. Although the Department of National Parks and Wildlife Conservation is responsible for the nation's parks, other government agencies have related responsibilities that directly impact park management policies. The actions of these overlapping agencies can limit the Department's authority to implement nature conservation strategies.
- **Lack of Research in related subject:** For protection and promotion of heritage lack of research system.

⁵⁷ 'Earthquake Nepal' < <http://www.earthquake-nepal.com/>>(access November 28, 2018)

⁵⁸ Ibid

⁵⁹ Francesco Bandarin, 'WORLD HERITAGE Challenges for the Millennium'ýJanuary 2007ýUNESCO World Heritage Centre<<http://whc.unesco.org>>p. 169(access November 27, 2018)

⁶⁰ Keiter, vide n 44 at 612

- Various interests of the concern authorities⁶¹: Many national and international agencies interested in culture, heritage, tourism and development have taken various initiatives in this regard. However some conflicts of interests among different stakeholders
- Less priority of Related subject
- Pollution
- Natural Hazard

8. Challenges for Promotion of Cultural and Natural Heritage in Nepal

- International and National Cause: This ICOMOS report underlines the need for increased representation of the heritage of other world religions such as Buddhism, Hinduism, Islam and Judaism. It also calls for thematic studies to be carried out on the monuments of these religions. The report notes, however, that the Tentative Lists may in the medium term fill some of these gaps. Indeed as of 2002, Buddhist sites were well represented on the Tentative Lists of India or Nepal.⁶² Buddha birth place has already recognized UNESCO world heritage site. Everything is proved Buddha birth place is Nepal. But the question is still arise where is organ place of Buddhism. So it is the major challenge for promotion cultural heritage for Nepal.
- Limited resources: The protection and promotion of Nepalese cultural and natural heritage. It should be coordinate The Natural Heritage Protection Fund was established in 2000 in compliance with article 17 of the UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage. The Fund's priority is the overall support of World Heritage sites, as well as obtaining this status for new natural sites both in Russia and the CIS.⁶³
- Geographical cause
- Unstable Government
- Lack of Policy formation

9. Policy Recommendation for Promotion and Protection Heritage in Nepal

(I) Policy Recommendation for Promotion

- Make perfect Data base of Cultural and Natural heritage which are listed and non-listed in world heritage site. Which have already listed

⁶¹ Neel Kamal Chapagain. 'Heritage conservation in Nepal: Policies, stakeholders and challenges' (Vol. 3) HIMALAYAN JOURNAL OF DEVELOPMENT AND DEMOCRACY, No.1, (2008) at 37

⁶² Bandarin, vide above n 58 at 107

⁶³ 'Natural Heritage Protection Fund' < <http://www.nhpfund.org/>> (access November 23, 2018)

in UNESCO site it should advertise world wise. And which haven't listed yet it should be made perfect Documentation should be preparing the complete file on each cultural and natural heritage. It should include all the information about it together with maps, old photos recent photos, drawings and report about current status. This evidence should fulfill the criteria of selection process of UNESCO world heritage site.

- Make clear policy about Cultural and Natural heritage and share with international forum. Laws and regulation should be enforced and authorities empowered to implement them to protect the heritage.
- Make awareness of stakeholder society, they should be thought the cultural and natural heritage is the property of Nation as well as property of world community.
- The messages and missions of museums should be discussed and reformulated. The social, educational and cultural roles of the museums should be enforced and highlighted. Museums should be more inviting and engaging for the society through innovative activities, events and programs that can best present the heritage they preserve.
- Make proper budget of promotion of cultural and natural heritage, locally and globally.
- If government will be change, follow the previous government policy for promotion it. Each and Every government does not change the promotion as per your choice. But you could made progressive policy for promotion of the heritage.
- About the Buddhism and Buddhist Birth place make big conference and give the message to world, Buddhism organ place is Nepal.
- Manage resources coordinate with Heritage Protection Fund of UNESCO. The Natural Heritage Protection Fund was established in 2000 in compliance with article 17 of the UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage. The Fund's priority is the overall support of World Heritage sites, as well as obtaining this status for new natural sites both in Russia and the CIS.⁶⁴

⁶⁴ 'Natural Heritage Protection Fund' < <http://www.nhpfund.org/>> (access November 23, 2018)

(II) Policy Recommendation for Protection

- Natural Disaster have not controlled under the people. But it can be controlled and give support other retrofitting and suitable.
- Stakeholder should be coordinate for protection.
- Make a public awareness: Public awareness is very important for protection and promotion for heritage.
- Prominently lead the Department of Archaeology through one ministry. Because every government change the leadership of such department. It make unstable policy coordination.
- Flood and Climate Change is really big problem for protection Sagarmatha National park. So it should be discuss in International forum.
- Pollution should be control not only not only Sagarmatha National park but also other cultural and natural heritage place of Nepal.

10. Conclusion

Nepal has two cultural heritage and two natural heritage listed in UNESCO world heritage site. Many important historical, cultural places and tangible and intangible property still hasn't recognized in the world site. Likewise, Gorkha Darbar, Janaki Temple which has long history and it has very importance in the history of Nepal. Gorkha Darbar is directly related on Modern Nepal, because the former King dynasty main origin place is Goarkha Derbar. Now Nepal is recognized as Federal Republic Nepal. Such a situation the Shah dynasty is very important for Nepal. Still Gorkah Darbar hasn't recognized in the USESCO world heritage site because lack of proper promotion and protection. It is one of the examples of Nepal.

The Nepalese cultural and Natural heritage has been facing many problems and challenges to promotion in the world. Specially, the Lord Buddha Birth place has still confutation in the world. It has already recognized by USESCO world heritage site in 1997. It has fulfilled the UNESCO cultural heritage selection criteria number (iii) and (vi), but still question is arising where is the organ of Buddhism and Buddha birth Place. The very important evidence still secured in Lumbini about Lord Buddha, so origin Buddhism is Nepal. But the question hasn't been settled where the origin of Buddhism. If government of Nepal will make the proper promotion through diplomatic away

it question should be settled. Nepal is tourism hub, but is still shadow in world. This is cause of lack of promotion heritage in the world.

Nepal has been facing cultural and natural heritage protection challenge, i.e. natural disaster, like earthquake, climate change, pollution and soon. Kathmandu valley is facing the threatening of earthquake and Sagarmatha National park is facing climate change. It is major issues of protection system. Kathmandu valley and Sagarmatha National park has been facing the pollution too. In this regard, government should be make proper pollution control mechanism and strictly applied it. Other wises it will make big problem upcoming days. The public awareness is also importance of promotion and protection heritage in Nepal.

