

Input for the Special Rapporteur on the Independence of Judges and Lawyers

From: Ashutosh Pant, Nepal

Introduction:

I am writing to offer my perspective and input for your upcoming report on the Independence of Judges and Lawyers amidst modern challenges to democracy. It is an honour to contribute to this important discussion, especially from the standpoint of Nepal, a country with a diverse and ever-changing legal landscape.

Challenges and Obstacles:

Despite their contributions, judges in Nepal face several challenges that can impede their ability to safeguard democracy effectively. These include:

Political interference: Efforts to influence judicial decisions through political pressure can undermine public trust in the judiciary's impartiality.

Inadequate resources: Limited budgets and insufficient infrastructure can hinder the efficient administration of justice, leading to delays and potential denial of access to justice.

Lack of diversity: Underrepresentation of women and minority groups on the bench can create blind spots regarding certain social issues and limit the judiciary's ability to reflect the wider Nepali society.

Role of Prosecutors, Lawyers, and Community Justice Workers:

In the preservation of democratic values, key figures including prosecutors, lawyers and community justice workers each have a crucial part to play. Prosecutors hold a critical responsibility to act in a just and impartial manner, holding individuals accountable for any infringements upon human rights or abuses of authority. Meanwhile, lawyers serve as fundamental sources of legal representation, championing the rights of society's most marginalised and vulnerable. Additionally, community justice workers greatly contribute to the facilitation of fair conflict resolution and legal access, particularly in remote regions where traditional court processes may not be easily attainable.

Protecting Legal Actors:

Effective measures must be put in place to safeguard all legal professionals from being intimidated, harassed, or subjected to violence as they carry out their responsibilities. This encompasses safeguarding the independence of the judiciary, preserving the confidentiality of attorney-client communications, and providing sufficient security for prosecutors and community justice workers.

Recommendations:

Strengthening judicial independence: Implementing robust safeguards against political interference, ensuring adequate resources for the judiciary, and promoting transparency in judicial appointments are crucial steps.

Enhancing diversity: Active efforts to increase the representation of women and minority groups on the bench, within the prosecutor's office, and among lawyers and community justice workers can strengthen the legal system's legitimacy and effectiveness.

Supporting legal aid: Expanding access to legal aid and pro bono services, particularly for disadvantaged communities, can help ensure equal access to justice and uphold democratic values.

Protecting legal actors: Implementing effective mechanisms to ensure the safety and security of judges, prosecutors, lawyers, and community justice workers is essential for maintaining a thriving legal ecosystem.

Conclusion:

As Nepal continues its journey towards a strong and autonomous judicial system that protects democracy, it is vital to acknowledge the hurdles and implement effective measures. By safeguarding the independence and upholding the integrity of legal professionals, and fostering a culture of responsibility and equal access to justice, Nepal can strengthen its democratic bedrock and cultivate a fair and inclusive society. I am grateful for the opportunity to contribute my perspective and believe that sharing diverse viewpoints from across the globe is crucial in promoting the autonomy of judicial systems and safeguarding democracy worldwide.