The views, analysis and findings presented in the report may not necessarily reflect the views of the Norwegian Government. This is an independent assessment conducted by DCAF/ISSAT. The study was financed by the Royal Norwegian Embassy in Kathmandu.
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EXECUTIVE SUMMARY

The year on year economic growth and improvements in the Human Development Index indicators confirm that Nepal is undergoing dramatic change and socio-economic development is improving. Important reforms are underway or planned across the security and justice sector. It is anticipated that with the gradual implementation of the new Constitution profound changes will occur in the justice sector. This includes federalization of the police to a new three tier structure, the creation of new Judicial Committee bodies at the local level Governments, reduction of the jurisdiction of the Chief District Officer (CDO), and ensuring District Courts become the courts of first level of appeal. The recently promulgated Penal Code and draft civil law and criminal code are also expected to fundamentally change the way justice services are provided. The overall ambition and expected changes reaffirm the importance and need for justice sector reform in the medium to long-term.

SECURITY AND JUSTICE NEEDS

While indicators for crime fluctuate year on year, overall official data suggests that levels of serious crime in Nepal remain low and are considerably lower than their peak in 2004-2005. Closer scrutiny of statistics and interviews with a wide range of interlocutors confirmed that the perception and realities of serious crime provide a more nuanced picture. Due to social acceptance or normalization of certain crimes, lack of trust and access to services, crime remains underreported and many of the underlying security and justice needs go unidentified in official statistics. While some surveys showed that anywhere from 1.8 to 5.2 percent of respondents in a district have experienced violent crime in the past 12 months, when re-examining the same data set by caste group it shows that up to 9.5 percent of Dalit Women in these districts experienced some form of violent crime. The variations re-affirm that experiences of physical insecurity remain significantly different according to district, gender, age, but also caste group.

While Nepal has remained relatively peaceful since the CPA was signed in 2006, many of the drivers of conflict that fuelled the long civil war remain hidden just beneath the surface. Such drivers include significant inequality and poverty, as well as limited trust in state institutions. The potential fragility across Nepal is often showcased in frequent protests in regions dominated by marginalized groups.

A basic review of cases on court dockets, cases handled by the CDO, and interviews with interlocutors indicates that the predominant crimes brought before courts include theft, robbery, and illegal arms/explosives and substance abuse. Emerging criminal justice issues include cybercrime, money laundering, drug trafficking, wildlife trafficking, and cross-border crime especially with India. While traditionally criminal justice system reform has been the key priority focus in Nepal following the end of the conflict, civil cases related to issues such as divorce, land, money lending, access to forests, water and inheritance are increasing in frequency and prominence on court dockets and mediation processes.

There are few references to juvenile justice in strategic plans of both the OAG and judiciary and few donors engage in this reform area; however, even a cursory review of the main challenges facing children confirms that this is a significant area of vulnerability, risk and need in Nepal. Children
represent roughly 46 percent of the overall population. Only 2.2 percent of the overall case load in courts relates to children. Alarmingly, 1 out of 4 detainees in police custody are children.¹

Overall the level of gender based violence has continued to be rampant if not increasing in many communities. Some informal estimates of the level of gender based violence note that on average in Nepal every minute a women is beaten or sexually assaulted. According to one survey, over 64 percent of women had admitted to suffer from some form of domestic violence at some point in their lives. Domestic violence cases are not localized to any single region but rather a nationwide source of insecurity that some interlocutors have noted is increasing in many communities and reaching endemic levels.

One of the emerging threats in the justice system relates to natural resources. As land, water and other natural resource scarcity increases over time due to privatization or growing utilization for commercial purposes, communal disputes related to use and access to natural resources are increasing and constituting a threat to local peace and stability. 27 percent of cases in courts relate to land disputes.²

There is a worrying trend and significant risk that donors have started to consider transitional justice a niche justice issue of diminishing importance. According to some estimates a further 20,000 cases of sexual and gender based violence related to the conflict were never reported or considered. By mid-2017 few if any of the documented cases had proceeded to an advanced stage of investigation.

OBSTACLES TO JUSTICE

Based on interviews with some CSO and CBO it is apparent that from the perspective of the user, accessibility, negative perceptions regarding the integrity of the institutions, complexity of processes and systems, costs, and even fear of re-victimization remain substantial and real institutional barriers to access to justice. In many of the marginalized and vulnerable communities there is generally a very low level of awareness of the availability of services, including free legal aid mechanisms, structured mediation centres, or the Women’s Police Cell. While multiple laws spell out jurisdictional competencies and functions of each of the actors, in the absence of effective checks and balances it is common to find that some of the institutions exceed their legal powers regarding which cases they should adjudicate.

Lack of trust in the integrity and effectiveness of the formal justice institutions continues to be a key contributor to why users, especially from vulnerable and marginalized groups, shy away from engaging with justice sector institutions. In some surveys, only a third of women said they trusted the courts to some extent. Depending on the region, surveys also show that only 30 to 60 percent of the population trust the police. Overall, for many marginalized and vulnerable groups there is a continued preference for informal justice mechanisms. Equally, the extensive delays in court cases often frustrate and deter users from pursuing such cases in the first place.

¹ Data provided by UNICEF office in Nepal
For many women, marginalized communities and children, social barriers remain the primary obstacle preventing access to justice. The social barriers are vastly different amongst ethnic groups and can range from lack of economic empowerment, traditional values, or even established practice at community level.

**ABUSES CAUSED BY STATE AND NON-STATE SECURITY AND JUSTICE PROVIDERS**

With a high dependence on confession based approaches to investigation, coerced confession and torture of detained individuals remains common across Nepal. Some interlocutors noted that police purposefully omit key evidence from the record if it might inhibit an arrest. This is often caused by pressure for speedy results or to help inflate figures related to number of successful investigations. With a high dependence on confession based approaches to investigation, coerced confession and torture of detained individuals remains common across Nepal. In some surveys, 1 out of every 6 adults in detention note they were subject to some form of physical abuse or torture.

Corruption is rife across Nepalese society and in Government. The security and justice sector is not immune from corrupt practices, with stakeholders citing frequent examples of corruption occurring at virtually all phases of the justice process. The common perception amongst legal practitioners is that corruption in the police and judiciary has worsened in the past few years.

The rights of those detained and imprisoned are systematically violated. State authorities openly admit that prison conditions fall short of meeting minimum international standards and the system treats individuals “like animals”. Basic food, shelter or sanitation facilities are lacking in most prisons. Most prisons are 200 percent over the maximum capacity.

**SERVICE DELIVERY AND EFFECTIVENESS OF INSTITUTIONS**

The investigation capacities of the police in many rural areas remain largely rudimentary. The inefficiencies and ineffectiveness of investigation is largely attributed to the poor system of police training at rank of constable and above limited operational resources (funds and equipment) to conduct and follow up investigations.

Roughly 90 percent of Nepali has a preference for informal justice mechanisms because of their accessibility, speed, and user friendly procedures. With a resolution rate ranging from 80 to 95 percent, mediation has played an important role in ensuring a basic level of access to justice for marginalized and vulnerable groups.³

In practice, critical gaps remain in the functioning, quality and coverage of the legal aid system. There is currently no coherent and uniform system of legal aid. While the scope of legal aid services provided by NGO is generally wider than those provided by the formal systems, their delivery largely depends on donor funding, donor priority issues and donor target regions. This means that in practice coverage is not uniform over time and tends to be largely transient.

³ [https://asiafoundation.org/resources/pdfs/CommunityMediationinNepal.pdf](https://asiafoundation.org/resources/pdfs/CommunityMediationinNepal.pdf)
On average the successful prosecution rate ranges from 65 to 75 percent. In comparison, the conviction rate of cases handled by the CDO is roughly 95 percent. The judiciary has seen an increase in its case load year on year in both criminal and civil cases. While gains have been made in reducing the average length of certain cases, including rape and domestic violence cases, some interlocutors have noted that there can be disparity of even years in how long similar cases take to conclude. More worryingly, the greater case load and emphasis on speed has according to some legal practitioners caused the overall quality of judgements to progressively deteriorate.

In relation to juvenile justice, the measures for diversion, restorative justice and alternate sanctions are not established in law. While 56 juvenile benches have been established, procedures and systems for such hearings remain underdeveloped and there is inconsistency in how such hearings are conducted.

In Nepal it is clear that the prison system is the weakest link in the criminal justice chain. Standards of service are significantly below those of other institutions in the chain. There is no system of rehabilitation available to prisoners and no established system of probation or alternate sentencing. This means that many of the individuals that are incarcerated are poorly equipped to reintegrate into society upon release.

INSTITUTIONAL CAPACITIES/MANAGEMENT

Since 2007 significant investment and attention has been given to strengthening the infrastructure and capacities available to the justice and security sector institutions. This trend is likely to continue, with the 2017/18 budget priorities for Government especially highlighting a need to improve infrastructure, equipment and professionalization of the police. While there remain important gaps in training and infrastructure, this is no longer the area that is the primary obstacle for access to justice and security. Overall, comparatively far less attention has been given to ensuring that reform of the management systems keeps pace with the growing capacity.

MANAGEMENT

Despite the high level of ambition in reform and the significant number of implicated moving parts, there are questions regarding the extent to which there is a vision or clear policy direction to ensure coherence between the various tactical level reforms and the strategic aims. Due to mandates and stark defence of autonomy and independence by each institution in the criminal justice chain, it remains unclear to what extent there is willingness to coordinate at policy level or who should initiate sector wide policies. Across all levels, including both operational and senior management within security and justice institutions, there is wide acknowledgement of the challenges of access to justice for vulnerable groups and minorities, gender responsiveness, and need for more inclusive and representative institutions. Yet, it is notable that these are areas which the various reform strategies provide only scant references to and propose few concrete steps regarding how they will be tackled in practice.

5 Universal Human Rights Periodic Review of Nepal, 2015
While the budget of the security and justice sector institutions has continued to grow in line with cross the board increases in the national budget, it is notable that the budget spent on the sector represents roughly 3.95 percent of the overall projected national budget for 2017/18. The police receive roughly 81 percent of the budget committed to the sector. The lack of balanced funding is a key contributing factor to the asymmetry in capacity across the institutions in the sector.

In line with other sectors in Nepal, the security and justice institutions all deploy a heavily centralized management system. As the number of staff and subordinate structures across all the institutions continues to grow year on year, this centralized system of management is becoming even less fit for purpose and remains a key limiting factor for the minimal cost-benefit and the potential impact of additional spending on capacity and infrastructure. Across the sector the performance management systems remain underdeveloped.

One of the critical challenges in management of the institutions is the lack of independence and frequent political interference in operational matters related to the criminal justice institutions. There is concern that the police and prosecutors continue to be susceptible to political direction and interference regarding individual investigations or prosecutions.

In practice Chief District Officers (CDO) handle the significant number of cases and represent one of the most common entry points for individuals into the formal justice system. The lack of a clear regulatory framework leaves individual CDOs with a high level of discretion to manage and exercise their adjudication functions.

CAPACITY

Effective human resource management continues to be a significant gap across the justice sector affecting all institutions. There are key shortcomings in the integrity and independence of the recruitment processes. All institutions have very elementary formal systems of staff appraisal and performance monitoring. There are an estimated 100 vacancies in middle to low level positions within the OAG and over 300 vacancies in the judiciary in administrative and support positions. Despite frequent announcements of vacancies, there are recurrent examples where not a single candidate applies for vacancy notices in both the judiciary and OAG.

Ensuring that Nepal's Judiciary is inclusive and representative has been a long-standing struggle. Currently, out of 165 District Court judges only one judge is a woman. While in the overall judicial sector women hold roughly 14 percent of the positions, such positions are predominantly in lower ranks and administrative functions. A little more than ten percent of all practicing lawyers are women. This overall under-representation of women in the judicial sector has remained largely unchanged for over 5 years.

There is currently no system of continuous legal education for legal practitioners in Nepal. Much of the supply of training is linked to donor or NGO programming activities and thus remains highly transient or dictated by supply rather than actual needs.

COORDINATION

While numerous initiatives to improve sector coordination have been introduced in the sector in recent years, there remain important shortcomings in the coordination mechanisms at both strategic and operational levels. The emphasis on improving coordination has been to develop structures to facilitate regular dialogue and exchange between the actors. There are few, if any, joint cross sector policies related to the justice system. The risk of operating in the absence of a common policy framework is a lack of coherence between the various reforms across the institutions.

Equally, there is currently no common strategy for reform of the sector, rather institutions pursue reforms and planning in silo and rely on reactive corrective measures during implementation to resolve any disconnect in reform ambitions. The common shortcoming of the various coordination structures is that they are reactive to challenges and lack a clear agenda for coordination. They have rarely been empowered nor had the capacity to steer strategic level reforms, the area where coordination is currently lacking the most.

ACCOUNTABILITY

As highlighted in virtually all assessments related to access to security or justice sector reform in Nepal, the lack of accountability for performance and conduct of justice and security sector institutions and their personnel remains amongst the primary impediments to achieving impactful results in improving access to justice. The state level systems of accountability remain poor leading to a general sense of lack of effective monitoring over the justice system.

The Judiciary and Police have established a system of phone numbers and online platforms that can be used for gathering complaints from users. Awareness of such mechanisms by the general public remains low and little effort is made to promote the mechanisms at community or District levels.

The Judicial Council is mandated to oversee the conduct of judges. Despite informal surveys of court users affirming wide spread corruption across the judiciary, in 2017 the Judicial Council had an active backlog of only 25 cases under investigation related to misconduct of judges. According to various stakeholders petty corruption complaints against judges are frequently dismissed when initially screened by the Judicial Council due to limited evidence presented by the user when submitting the complaint.

Importantly, there is currently no standardized clear public complaints mechanism for the prisons, lawyers or prosecution. The CDO and other quasi-judicial bodies remain influential justice institutions but outside of appeals on procedural grounds to first instance courts, and periodic audits of cases by the Supreme Court, there are no clear complaints or oversight mechanisms related to the conduct of CDO.

Much of the existing civil society and NGO programming in the sector focuses on provision of services or advocacy for socio-economic rights. A comparatively small percentage of NGO resources are dedicated to making the security and justice sector more accountable. Nonetheless when active, 7

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civil society has shown it can be an important actor to hold the state security and justice institutions to account.

CONCLUSIONS AND RECOMMENDATIONS

The predominant focus of the reform process on improving infrastructure and capacity, both in terms of increased staff and training, have until now only had marginal impacts on the level of access to justice for vulnerable groups. Nonetheless, small and incremental changes are evident across the sector that affirm overall justice sector reform is moving in the right direction. This includes improved case dispensation, dedicated systems and structures for dealing with cases involving children and women, and growth of legal aid services. Yet, significant risks related to political interference, elite capture of resources, and lack of integrity remain. The prospect of non-engagement by donors in the sector going forward risks that many of the hard fought reforms across the sector could still be reversed. The overall strategic level recommendations from the findings can be structured around 7 areas with an additional cross-cutting gender recommendation (7+1):

- Raise the profile and resource commitment to justice sector reform
- Prioritize access to justice for marginalized and vulnerable groups
- Prioritize accountability as a central element of the reform efforts
- Ensure prison reform is mainstreamed in justice sector reform efforts
- Promote independence and impartiality of the judicial bodies, including the Judiciary – engage in political dialogue to help address political impediments to reform
- Mainstream justice reform and rule of law across the development agenda, addressing emerging needs and issues related to civil law
- Re-engage in transitional justice and continue to specifically tackle conflict drivers

Plus + 1: Promote more gender responsive and inclusive security and justice institutions
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>CDO</td>
<td>Chief District Officer</td>
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<tr>
<td>CIAA</td>
<td>Commission on the Investigation of Abuse of Authority</td>
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<tr>
<td>CIEPD</td>
<td>Committee of Investigation on Enforced Disappeared Persons</td>
</tr>
<tr>
<td>CLAC</td>
<td>Central Legal Aid Committee</td>
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<tr>
<td>CPA</td>
<td>Comprehensive Peace Agreement</td>
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<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<tr>
<td>FIR</td>
<td>Fist Information Report</td>
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<tr>
<td>GBV</td>
<td>Gender Based Violence</td>
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<tr>
<td>IGP</td>
<td>Inspector General of Police</td>
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<tr>
<td>ISSAT</td>
<td>International Security Sector Advisory Team</td>
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<tr>
<td>JSCC</td>
<td>Justice Sector Coordination Committee</td>
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<tr>
<td>MoF</td>
<td>Ministry of Finance</td>
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<tr>
<td>MoLJ</td>
<td>Ministry of Law, Justice and Parliamentary Affairs</td>
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<tr>
<td>NBA</td>
<td>Nepal Bar Association</td>
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<tr>
<td>NRHC</td>
<td>National Human Rights Commission</td>
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<tr>
<td>OAG</td>
<td>Office of the Attorney General</td>
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<tr>
<td>SGBV</td>
<td>Sexual and Gender Based Violence</td>
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<td>SLAC</td>
<td>Social Legal Aid Centers</td>
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<td>TJ</td>
<td>Transitional Justice</td>
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<td>TRC</td>
<td>Truth and Reconciliation Committee</td>
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INTRODUCTION AND CONTEXT

The year on year economic growth and improvements in the Human Development Index indicators confirm that Nepal is undergoing dramatic change and socio-economic development is improving. Important reforms are underway or planned across the security and justice sector. The 2015 adoption of the new Constitution 10 years after the Comprehensive Peace Agreement (CPA) is an important landmark decision demonstrating significant progress made to consolidate gains in development and peacebuilding. However, critical challenges related to equality, discrimination, and poverty persist.

It is anticipated that with the gradual implementation of the new Constitution profound changes will occur in the justice sector. This includes federalization of the police to a new three tier structure, the creation of new Judicial Committee bodies at the local level Governments, reduction of the jurisdiction of the Chief District Officer (CDO), and ensuring District Courts become the courts of first level of appeal. The Judiciary is expected to retain its unitary structure. In parallel, important changes of the legal framework, including critical legislation expanding human rights guarantees and ending long established discriminatory practices impacting marginalized and vulnerable groups, are expected. The recently promulgated Penal Code and draft civil law and criminal coded are also expected to fundamentally change the way justice services are provided. The overall ambition and expected changes reaffirm the importance and need for justice sector reform in the medium to long-term.

Significant challenges and gaps in the quality of access to justice exist for all Nepali. While important steps have been taken to reduce discriminatory provisions in the legal framework, with significant diversity, including over 125 ethnic groups, and stark differences in development across the country, in practice there are significant differences in the quality and access to justice across the country. While there has been steady economic growth year on year, there are as many as 1,500 young people leaving the country every day and much of the economic growth is attributed to remittance payments from the growing exodus of Nepali who are working abroad.6

Security and justice institutions still face critical problems of politicization, lack of integrity and accountability, imperfect inclusiveness and responsiveness, gaps in service delivery and limited resources. Despite an on-going process of reforms, and some improvement in terms of performance, it is concerning that the key criteria of a well-functioning justice system seem to be lacking or under threat. This includes independence of the judicial actors being continually undermined, impartiality and integrity of the institutions being in question, and lack of public trust in the institutions. The limitations of the transitional justice process and perceived impunity for conflict era crimes also undermine public confidence in the general capacity and political willingness of the State to ensuring rule of law and access to justice.

At this critical and sensitive juncture of Nepal’s development and state-building process justice reform is key to help create an enabling environment for further socio-economic growth. Without it possible gains from foreign direct investment will not be maximized. Substantive progress in

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security and justice reform will likely be a determining factor in the extent to which the Government of Nepal will be able to achieve meaningful and sustainable progress across all Sustainable Development Goals beyond just Goal 16. As an example:

- alleviating poverty (Goal 1) will require effective access to justice for the most vulnerable groups,
- gender equality (goal 5) is largely contingent on the extent to which the security and justice institutions will address the endemic level of GBV and become more responsive to the security and justice needs of women/girls,
- affordable and clean energy (goal 7) will also require that individuals have effective remedy to the growing number of grievances related to dam construction,
- progress in economic development (goal 8) will require the justice system to become more efficient in dealing with growing number of commercial related disputes emerging in court dockets or that quasi-judicial bodies are able to deal with increasingly more complex commercial disputes
- reduced inequalities (goal 10) will require that the security and justice institutions are able to ensure equal access to justice for all groups, especially marginalized groups who are today most susceptible to human rights violations and serious crime
- developing sustainable cities (goal 11) requires that security institutions are more effective in prevention of growing crime in urban areas across Nepal as well as continue to increase security and justice services in remote communities where today such services are often lacking
- life on land (goal 15) will requires that security and justice institutions affectively deal with growing number of communal conflicts related to natural resources

Compared to the first five years post 2007, in the past five years donor support to security and justice sector reform is gradually decreasing by scope, size and number of donors engaging. From a peak of roughly 35 million USD in 2011, by 2017 no more than 18 million USD is being spent on governance and service delivery related to security and justice reform. The largest donors in the sector include the UK, US, Finland, Norway and Denmark, with additional financial support provided by Asia Development Bank, Australia, Japan, EU, and Switzerland. Across the UN system UNICEF, UNDP and UN Women provide core funding or directly implement large-scale programmes in the sector. It is notable that a large number of donors have signalled that they will continue to cut funding to the sector, will withdraw altogether (eg. Denmark) or are in the process of reconsidering their strategic engagement in the sector. For its part, the government of Nepal spends 2.9 percent of the national budget on the justice sector. At a time when ambitious reforms are needed post the 2015 Constitution, the justice sector appears heavily under resourced.

This assessment was commissioned to inform future donor funding priorities and areas of engagement. The assessment builds on the work of previous justice sector wide assessments that have been undertaken by the United Kingdom, USAID, United Nations Development Programme, Norway and various national institutions, including the CSO community in Nepal. The aim is to understand the emerging needs and opportunities for strengthening the overall justice reform process in Nepal.

An overview of the formal and informal security and justice sector institutions can be found at: [http://prezi.com/i42i9qsmu9/?utm_campaign=share&utm_medium=copy](http://prezi.com/i42i9qsmu9/?utm_campaign=share&utm_medium=copy)
METHODOLOGY

The following section outlines the methodology which was applied to the data collection process. The methodology is largely based on the ISSAT Community Based Approach Assessment methodology. The assessment follows a problem solving approach: firstly identifying the needs and challenges and then understanding what institutional factors cause the needs and challenges.

The overall report and findings were structured around 3 key questions:

- **Key Question 1**: What are the key needs and challenges faced by people related to timely and effective access to justice and security, and protection of their human rights?
- **Key Question 2**: To what extent are state security and justice providers and management bodies effective, efficient and accountable to addressing the security and justice needs of the people?
- **Key Questions 3**: To what extent are state and non-state oversight institutions effective and efficient in delivery of services, or holding to account state security and justice providers?

The assessment was conducted from May to August 2017. It included a desk review phase, a 10-day fact finding mission in Nepal, and a concluding analysis and report drafting phase. During deployment the team visited institutions in Kathmandu, Sindhupalchwok, and Dhulikhel.

The desk review phase included collection and analysis of the various assessment reports previously commissioned by donors, synthesis of strategic plans, and review of research developed by various stakeholders. The in-country fact finding mission used a semi-structured interview approach, where interviews sought answers to the key questions outlined above.

Limitations of the review included lack of access to some key donors during and prior to the field mission. In addition, due to limited time on the ground and the extensive scope of work, the team did not have an opportunity to ensure a sufficient balance of meetings between strategic and operational level staff of each institutions as originally envisioned. The team had the opportunity to meet with senior representatives and leadership of a number justice institutions, including: Judiciary, Judicial Council, Nepal Bar Association, Office of Attorney General, Ministry of Home Affairs, and the Ministry of Justice. Overall, only a limited number of representatives of civil society, court users and justice sector institutions were interviewed during the assessment. No direct court, prison or police station observation was possible in the restricted time available. The field visits outside of Kathmandu were only in two Districts, limiting the ability of the assessment to fully capture the wide range of access to justice issues found across the country.

The report is organized according to four sections:

- **Section I**: covers the security justice needs, obstacles to justice, abuses caused by security and justice institutions, and analysis of the security and justice services being provided
- **Section II**: covers the management systems, capacity, and coordination effectiveness of security and justice institutions
- **Section III**: examines the quality and efficiency of both internal and external accountability mechanisms
- **Section IV**: provides conclusions and recommendations based on the findings found in section I & II.
It is important to note that the methodology aimed to mainstream a set of critical core issues: human rights, gender, and integrity. The report details gender issues and analysis across all sections.

SECTION I: SECURITY AND JUSTICE NEEDS

This section provides an overview of some of the key security and justice needs experienced across Nepal from the perspective of victims, the accused and convicted. It also maps existing obstacles faced by individuals in accessing security and justice services and evaluates the effectiveness of those services when provided. This last element is an analysis of common abuses and human rights violations perpetrated by security and justice institutions. The purpose of the section is to establish the extent to which security and justice issues remain a concern for citizens, including the most marginalised and vulnerable groups.

ANALYSIS OF NEEDS IN ACCESS TO JUSTICE

While important justice and security sector reforms have been introduced in Nepal in the past decade, a significant portion of the population still perceives or directly experiences some form of deprivation of their basic civil and human rights and struggles to effectively access justice. Due to stark differences in socio-economic development across the various regions of the country, and large disparity in gender and ethnic equality, the security and justice needs of the population continue to be highly contextual. The needs and obstacles faced largely differ based on background, social status of the individual, or even region. Across the country and for a large part of the population, including the most vulnerable groups, the security and justice needs remain considerable.

What follows is a description of our key findings relating to security and justice needs, which should not be interpreted as a prioritization or ranking of these rights-needs.

VIOLENT CRIME

While indicators for crime fluctuate year on year, overall official data suggests that levels of serious crime in Nepal remain low and are considerably lower than their peak in 2004-2005. There is wide recognition within the population that the overall security situation has dramatically improved since the end of the conflict in 2006. While crime rates are starkly higher in urbanized areas of Nepal, according to some surveys, physical security is no longer commonly identified by communities as the predominant concern or threat to their wellbeing. To highlight the relative security and peaceful situation, authorities and stakeholders frequently point to homicide rates. In 2014, there were roughly 2.3 cases of homicide per 100,000 in 2014, which is lower than the regional average of 3.9 homicides per 100,000 people.

Closer scrutiny of statistics and interviews with a wide range of interlocutors confirmed that the perception and realities of serious crime provide a more nuanced picture. Due to social acceptance or normalization of certain crimes, lack of trust and access to services, crime remains underreported and many of the underlying security and justice needs go unidentified in official statistics. Anecdotal evidence suggests that up to one third of witnesses or victims of crime fail to report the crime to the
Nepal Police while some surveys show that 60 percent of women have not told others of the violence that was committed against them. According to one study, up to 48 percent of women noted that at some point in their lifetime they had been subject to physical abuse or harm while a specialised survey in Sindhuli, Udayapur and Okhaldhunga noted that up to 87 percent of males and 94 percent of women have heard of incidences of violence against women. Yet, according to some estimates only 60 percent of the women document such crimes through First Information Reports (FIR). Equally, as much as 50 percent of surveyed children have said that they have been subject to physical harm. Very few such cases actually get documented and processed. In both instances, poor trust in the institutions, social norms, and physical access are some of the key reasons why reporting rates for crimes remain low (see section below outlining obstacles to access to justice).

While compared to the regional average the overall case load in courts remains relatively low, it is notable that year on year the police and Office of the Attorney General (OAG) continue to see an increase in cases received and processed. The growing caseload is explained by an increase in actual crime but also an indication of improved effectiveness in registering such cases as well as heightened public awareness. The changing dynamic of crime and growth in number of cases is also a confirmation that an accurate understanding of the security and justice needs is still only emerging. It is notable that women currently account for roughly 7.3 percent of the overall prison population.

While some surveys showed that anywhere from 1.8 to 5.2 percent of respondents in a district have experienced violent crime in the past 12 months, when re-examining the same data set by caste group it shows that up to 9.5 percent of Dalit Women in these districts experienced some form of violent crime. The variations re-affirm that experiences of physical insecurity remain significantly different according to district, gender, age, but also caste group. It is notable that alcohol abuse alongside unemployment remain one of the biggest drivers of crime and conflict in poor communities across Nepal. In response, in 2017 Nepal introduced a more restrictive law on alcohol use with new proactive prevention measures being introduced.

While Nepal has remained relatively peaceful and stable since the CPA was signed in 2006, many of the drivers of conflict that fuelled the long civil war remain hidden just beneath the surface. Such drivers include significant inequality and poverty, as well as limited trust in state institutions to provide adequate security and justice. This includes the state being able to ensure effective access to justice for conflict era crimes. Ineffective and exclusionary political processes, or even poor justice and security provision, have periodically led to tensions within communities. Some interlocutors noted that when security and justice is seen to be lacking, individuals, especially in marginalized communities, often resolve to use force, including murder, as a means of countermeasure.

14 [https://thehimalayantimes.com/nepal/kathmandu-crime-rate-highest-across-nation/]
The potential fragility across Nepal is often showcased in frequent protests in regions dominated by marginalized groups. This includes political protests or general unrest that recurrently escalate into clashes with the security forces. At times such clashes are deadly and there is inconsistent appropriate security and justice response. Protests reached a peak in 2015 when clashes between security forces and protesters led to the death of 45 people in the Terai region, but also occur sporadically in otherwise peaceful and calm periods. The fact that recent local elections were not marred by violence is a positive sign. However, some interlocutors attribute this recent calm to the fact that marginalized communities feel exhausted and demoralized. Kathmandu based analysts remain largely positive that Nepal is on the road to sustained peace and development, however more cautionary views held by those representing marginalized communities caution that conflict could re-emerge within 10 years if a peace dividend does not materialize.

**COMMON CRIME**

The bulk of this section documents categories of serious crime in detail that impact rights holders, e.g. violent crime, trafficking, juvenile justice, domestic violence, transitional justice, etc. A basic review of cases on court dockets, cases handled by the CDO, and interviews with interlocutors indicates that the predominant crimes brought before courts include theft, robbery, and illegal arms/explosives and substance abuse. Emerging criminal justice issues include cybercrime, money laundering, drug trafficking, wildlife trafficking, and cross-border crime especially with India. As an example, cybercrime cases grew by 100 percent in 2014 compared to previous years (still low at 39 recorded cases, yet growing). In addition, various reports and stakeholders confirm that armed groups, criminal gangs and even mafia continue to operate in many parts of Nepal. The prevalence of organized crime in some parts of Nepal hinders community socio-economic development. The pervasive role played by ‘syndicates’ as loose associations formed to control various sectors, for example, transport or hydro-power, was mentioned by interlocutors as impacting human security and preventing a level playing field relating to economic development.

**HUMAN TRAFFICKING (MODERN SLAVERY)**

Human trafficking is a form of modern slavery, which itself is more recent terminology used to define human trafficking into either prostitution or forced labour, and all other forms of slavery including forced labour, debt bondage, child slavery/labour, early forced marriage, descent-based slavery, and domestic slavery. Nepal has over 230,000 people living in conditions equal to modern day slavery. Much of forced labour is found in agriculture, forestry and manufacturing sectors and can be traced back to debt bondage. Nepal does not have a mature export sector demanding use of factory labour, so supply chain slavery is less apparent, but forced labour at the ‘cottage industry level’ exists, as well as in brick kilns, hotels, restaurants, and there are other diverse examples such as of children providing bicycle taxis. Indentured labour is also now less of a problem due to reforms in relevant regions. Children and women work in domestic servitude, but cases are classified as juvenile justice, domestic violence, sexual assault or rape, rather than as slavery, as they tend to be detected once these other offences have been discovered and the pathway to prosecution is clearly understood.

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20 https://thehimalayantimes.com/kathmandu/cyber-crime-incidents-rise/
With over one quarter of the Nepali population living under the poverty line, human trafficking continues to be a critical threat across Nepal. In 2016 over 6000 Nepali were subject to trafficking and a further 4000 were reported missing. A total of 13,200 cases of attempted trafficking were reported in 2016, an increase of almost 5000 cases from the previous year.\(^\text{22}\) The recent earthquake saw a spiked increase in trafficking, which was clamped down through procedures such as road blocks. Human trafficking of children, women, and men abroad or in Nepal, as well as the transit of trafficked individuals from third countries, continues to be a growing threat and challenge. People are trafficked into prostitution and forced labour. An emerging threat is trafficking for organs and marriage. There can be misidentification of people as legitimate domestic or construction migrant workers, when they are in fact victims of trafficking. This is because of the difficulty trafficked migrant workers have in proving their abuse in a third country and then in accessing justice back in Nepal. The quasi-judicial process enabling access to justice for these victims is failing them (covered later), as is the formal criminal justice system. It is notable that overall only 181 human trafficking cases were comprehensively investigated by the police in 2016.\(^\text{23}\) This is largely explained by limited capacity to investigate such cases, the complexity and resources associated with such investigations but also because such cases are inconsistently prioritized by the police and prosecutors.

Human trafficking and modern day slavery disproportionately impact vulnerable and marginalized groups, including children, women, and members of lower caste who are more at risk. Of note in 2016, 60 percent trafficked victims were women, while women also accounted for 70 percent of reported disappearances. The Janajati community accounted for a staggering 48 percent of the overall cases of trafficked individuals, while the Brahmin and Dalit communities accounted for a further 29 and 15 percent of cases respectively.

### JUSTICE FOR CHILDREN

There are few references to juvenile justice in strategic plans of both the OAG and judiciary and few donors engage in this reform area; however, even a cursory review of the main challenges facing children confirms that this is a significant area of vulnerability, risk and need in Nepal. Children represent roughly 46 percent of the overall population. Only 2.2 percent of the overall case load in courts relates to children. Alarmingly, 1 out of 4 detainees in police custody are children.\(^\text{24}\) In addition, it is notable that 36 percent of girls are married under the age of 15; yet, the legal age for marriage is 20 and the statutory rape law sets the legal age of consent at 16.\(^\text{25}\) It is notable that only 18 cases of child marriage were pending before the courts in 2016. Equally, 37 percent of children engage in some form of child labour yet no known cases of child labour were present on the court dockets in 2017. It is notable that no evidence was found that donor programmes or justice institutions are actively dealing with cases of access to justice for child labourers.

As noted above, these might be classified instead as sexual assault or rape, for example, where a child servant in domestic labour is raped by their ‘uncle’ (slave master). There are no complete statistics for rape or domestic violence cases related to children, though some interlocutors noted

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\(^{23}\) [https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258829.htm](https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258829.htm)

\(^{24}\) Interview with UNICEF Office Nepal

\(^{25}\) Interview with UNICEF Office Nepal
that this is likely to be a significant number. While there are roughly 30,000 street children and a further 23,000 children living in homes, very few systems exist and have the capacity to address their unique social and legal needs, including provision of education which is a human right recognized in law in Nepal.

The age of criminal responsibility for an adult according to the Children’s Act (1992) is set at 16 years of age. Various institutions, including the UN Committee on the Rights of the Child have repeatedly recommended that the legal framework is revised to meet international standard for criminal responsibility – currently 18 years of age.

GENDER BASED VIOLENCE

Despite significant and targeted reform efforts in the past few years, gender based violence, especially against women, remains the foremost security and justice challenge in most communities across Nepal. Nepal continues to have a significant gender gap, and currently ranks 115th in the global gender gap rankings. Overall the level of gender based violence has continued to be rampant if not increasing in many communities. Some informal estimates of the level of gender based violence note that on average in Nepal every minute a woman is beaten or sexually assaulted.

According to one survey, over 27 percent of women had admitted to suffer from some form of domestic violence at some point in their lives and 15 percent have admitted to suffer from sexual violence. This is considerably higher than the global average of 30 percent of women experiencing some form of domestic or sexual based violence in their lifetime and 24.6 percent in the South East Asia. In this regard, 30 percent of emergency room admissions concern women who have been beaten. Domestic violence cases are not localized to any single region but rather a nationwide source of insecurity that some interlocutors have noted is increasing in many communities and reaching endemic levels. Women from some of the most marginalized groups, including the Dalit communities, are disproportionality more at risk of experiencing domestic violence. Equally, the level of rape, including marital rape, continues to be a major security threat and justice need. In some regions, including Saptari, over 50 percent of women noted that Dowry practice was a source of insecurity for women.

CIVIL CASES

While traditionally criminal justice system reform has been the key priority focus in Nepal following the end of the conflict, civil cases related to issues such as divorce, land, money lending, access to forests, water and inheritance are increasing in frequency and prominence on court dockets and mediation processes. These are areas are becoming practical justice priorities for many Districts and individuals, including for marginalized communities. It is notable that through various mediation and grievance mechanisms, including the formal court system, vulnerable groups are increasingly turning to the justice system to demand their rights related to civil law. Some examples of civil issues include:

27 http://nepal.unfpa.org/sites/default/files/pub-pdf/Factsheet%20GBV.pdf
28 http://apps.who.int/iris/bitstream/10665/85239/1/9789241564625_eng.pdf?ua=1
29 Interviews with CELLRD
**Natural resources:** One of the emerging threats in the justice system relates to natural resources. As land, water and other natural resource scarcity increases over time due to privatization or growing utilization for commercial purposes, communal disputes related to use and access to natural resources are increasing and constituting a threat to local peace and stability. 27 percent of cases in courts relate to land disputes. In particular, access and control over natural resources, i.e. land, forests and water, was reported as an emerging area of concern that could worrily mushroom going forward and bring with it the risk of conflict. Some of this can be linked to displacement of groups during and immediately after the civil war. Interlocutors commented that implementation of the new federal model could lead to conflict between states over these resources or administratively change existing access rights for local communities due to new delineations of jurisdiction. According to interviews, year on year there is a gradual increase in natural resource related cases emerging in case dockets of quasi-judicial bodies (especially CDO) and even at District Court level. There are growing number of violent conflicts arising, especially when forced eviction occurs of settlers and displaced groups.

**Commercial disputes:** With the cessation of conflict and a new era of optimism it is anticipated foreign direct investment will be attracted to Nepal. As the level of investment and entrepreneurship across Nepal continues to gradually grow in quantity and size, there are growing demands for justice in more specialized areas of law. This includes an evident trend whereby more complex cases related to commercial, environmental, labour, tax or even intellectual property law are emerging on court dockets. Members of the judiciary and legal educators we interviewed suggested that a more specific technical understanding of these complex areas of law was quickly required to ensure confidence in the justice system and economic growth.

**Labour Disputes:** This report has already addressed labour issues where they are criminal in nature, i.e. amounting to human trafficking or slavery/forced labour, however many labour disputes are civil in nature, e.g. relating to pay and conditions, and even some more minor health and safety issues. Here, among various access to justice issues for victims, interlocutors felt that the investigative, quasi-judicial (tribunals) and state based non judicial (mediation) processes managed by both the Department of Labour (DOL) or the Department of Foreign Employment (DOFE) should be improved, for example, better oversight and accountability within the formal justice process, officials mediating be properly trained, and that mediation of migration disputes not only take place in Kathmandu, which prevented access to justice for many victims living outside Kathmandu. Promulgation of the recent labour law will go some way to improving concerns. As economic development improves and foreign direct investment is attracted to Nepal a focus on domestic labour rights (civil and criminal) will be important.

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**TRANSITIONAL JUSTICE**

The decade long civil conflict, which formally ended with the signing of the CPA in 2006, had over 13,000 reported mostly civilian causalities. While complete statistics and reports are still lacking, various recent surveys and studies have shown that the scale and number of cases of GBV during the

[31](http://www.international-alert.org/sites/default/files/PeaceAudit_Nepal_EN_2015.pdf)
conflict is likely higher than initial conservative estimates and many of the victims have suffered long-term and lingering impact from such abuse.\(^{32}\)

Over a decade later, a significant part of the population is still seeking justice for deaths and serious crimes committed during this era. The prospect of holding perpetrators of serious crimes to account, as foreseen in the CPA, are fading for many victims and their families. From 2008 to 2012, through an Interim Relief Programme (IRP) some financial compensation was provided to over 30,000 survivors and conflict victims of serious human rights violations. It is notable that victims of SGBV were not included as beneficiaries of the IRP. Over 80,000 internally displaced individuals also received some compensation through the programme. While the programme proved to be an important step in providing economic relief and a basic level of reparations, it was seen as flawed by many victims due to accusations of political interference, favouritism, and by applying a narrow scope of crimes eligible for reparation or some form of justice. It also did not address individual and group accountability for the crimes committed.\(^{33}\)

As a response to growing calls for accountability, the Government set up the Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CIEPD) in 2016. In 2016, the TRC had collected and documented a total of 53,000 cases while the CIEPD had opened official case files for over 2700 cases.\(^{34}\) Some interlocutors noted that the official number of cases represents only the tip of the iceberg as many victims have given up hope in the process, victims were poorly sensitized to the process, or some vulnerable groups remained afraid to report the crimes. According to some estimates a further 20,000 cases related to sexual and gender based violence were never reported or considered. By mid-2017 few if any of the documented cases had proceeded to an advanced stage of investigation. Actual and perceived justice for many of the victims continues to be in question due to the lack of clarity on whether amnesty to perpetrators will be granted by the Government or whether the TRC/CIEPD will have sufficient political power and financial resources to continue their work. Attempts by individuals to seek justice through other avenues, namely the police or local courts, are often rebuffed already at the FIR stage despite clear ruling from the Supreme Court that courts retain the right to consider and adjudicate conflict era cases (case: Govinda Sharma Bandi v Government of Nepal).

There is a worrying trend and significant risk that donors have started to consider transitional justice a niche justice issue of diminishing importance. The relatively low attention given to TRC at the national level is because grievance holders are not the elite, but tend to be the poor, vulnerable and marginalized in the provinces with less voice. Grievance holders are also just disillusioned by the prospects of seeking justice and now more focused on livelihood issues. The assessment team was repeatedly cautioned my many representatives of civil society that transitional justice remains a significant issue for many families and one in which there is a growing need for donor to re-engage in irrespective of the political sensitivities and technicalities surrounding the issue.

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\(^{32}\) UN Women Desk Review

\(^{33}\) ICTJ, Relief, Reparations and Root Causes of Conflict in Nepal (2012)

\(^{34}\) http://www.recordnepal.com/wire/nepals-botched-truth-and-reconciliation-program/
The need to enhance access to justice has been consistently identified as a priority gap and challenge across essentially all perception surveys and sector assessments undertaken in Nepal since 2006. Delivering impactful results in this area remains a long-standing struggle for the Government, Judiciary, CSO community, and donors. For a significant part of the Nepali population accessing justice is a formidable if not unattainable goal even when they have been subject to serious human rights violations. For many, the obstacles and barriers to justice have remained largely unchanged over the years and the most vulnerable groups are commonly not emboldened to seek justice through formal mechanisms. The justice system continues to suffer from elite capture of resources and services, whereby perceived and actual access to justice largely depends on the status, gender or ethnicity of the person concerned. The following section outlines some of the persistent legal, institutional and social barriers various groups experience in accessing justice.

LEGAL OBSTACLES

Legal obstacles includes gaps in the legal framework to protect rights, lack of legal literacy/awareness, and lack of empowerment to access rights even when the framework is robust and the victim is aware.

Positively, the 2015 Constitution and various recently enacted laws have managed to significantly reduce many equality gaps in Nepal’s legal framework and to criminalize various serious crimes in line with international standards. In particular, Article 18 (1) and 18 (2) of the new Constitution safeguard equality before the law for everyone and outlaw all forms of discrimination. This is in addition to important landmark legislation on Penalizing Racial Discrimination and Untouchability (2011) and Gender Equality and Gender Based Violence Prohibition Amendment Act (2015). Yet, many gaps persist and an overview of some of the legal barriers to access to justice is now provided:

Citizenship: Citizenship is a critical requirement for accessing a range of social and legal services across Nepal. As an example, under the Legal Aid Committee Rules legal aid is only for Nepali citizens. Yet, even the new Constitution outlines different practices for attaining citizenship for children seeking citizenship through their mother or father. Preferential systems of citizenship are guaranteed for those whose father is of Nepali origin. In the current context citizenship for many individuals, including refugees, but also long-settled migrants, remains a largely unattainable goal.

Child Prosecution: While the Convention on the Rights of the Child (CRC) defines a minor as any person under the age of 18, in Nepal the legal age for criminal responsibility is set at 10. In practice children between the age of 16 and 18 are subject to regular court procedures and receive adult (majority) sentences. Those between the age of 14 and 16 are subject to half the majority sentence. Children between the age of 10 and 14 are subject to maximum sentences of 6 month imprisonment. All these legal provisions fall short of CRC recommendations. Furthermore, when minors are tried with adult co-defendants their trial is subject to adult procedures and rules, a provision which undermines the special rights and needs of children.

Human Trafficking/Slavery: Laws and policies to address human trafficking/modern slavery could be improved. Examples of challenges include the fact that the Nepali Government recently prohibited women under the age of 30 from seeking employment abroad as domestic workers to try and curb
trafficking into forced labour/prostitution. This had the unintended consequence of further endangering them as they turned to traffickers in their desperation to find overseas employment. Also in 2015 the Government introduced the ‘Free Visa, Free Ticket’ policy and capped recruitment fees at NPR 10 000 (USD96) to try and stop indentured migration workers, however this is not being applied and many migrant workers are charged huge fees leaving them indebted as modern slaves. While the constitution prohibits slavery, harmonization of the various laws to bring clarity penalties for slavery is needed. Positively, the new labour law makes improvements including coverage of informal sectors, the concept of labour inspectors, definition of primary sectors to include domestic workers, tourism and seasonal migration, and the prohibition of child labour; amendments to the Human Trafficking and Transportation Act could lead to the ability to prosecute down the trafficking chain (recruitment, transportation, transfer, harbouiring, and receipt of victims); and amendments to child labour law could see penalties strengthened and compensation provided.

**Torture:** The Act on Torture and Compensation 1996 limits the definition of torture to those instances which take place in official detention centres. The limited scope of this definition leaves ambiguity as to whether torture committed prior to arrest or in any other facility would be subject to the same punishment. Problematically the Act sets the statutory limitation to 90 days for crimes of Torture – leaving cases from the civil war outside of its scope. Similarly limitations related to SGBV cases (set at 35 days) have precluded women from pursuing cases, especially from the civil war period. In the case of rape, international legal and normative frameworks specifically state that no statutory limitations on reporting cases should be stipulated by law.

As shown above the scope and content of the legal framework are a barrier to accessing justice. In addition, many victims and accused are also prohibited from accessing justice simply because of their lack of legal awareness of procedures and systems (legal literacy) and their lack of capacity/confidence in pursuing grievances (legal empowerment). Due to the remoteness of some regions and high illiteracy rates, many people simply do not know their basic human rights or how to assert them. As an example, various studies have shown that between 13-40 percent of women noted that they were not aware of any law related to domestic violence. The variations in survey results depended largely on the region the surveys were conducted in and which caste the women belonged to. Due to long-term and comprehensive information campaigns, there is a slightly higher than average awareness amongst all groups across Nepal of laws related to gender based violence and human trafficking. In addition, women from upper caste groups are likely to have a 38 percent higher chance of knowing the law.⁴³ On the other hand, in many instances the lack of knowledge of the law prevents people from reporting such crimes. This is particularly the case relating to child marriage and other modern slavery case.

The same gaps in legal awareness are found in knowledge of procedural rules and processes. As an example, according to various interviews few detainees who come from vulnerable communities are even aware of their right to an attorney. This is both a breakdown in the obligation of the police to inform detainees of their rights but also of the limited reach of existing legal awareness campaigns. While various legal awareness programmes have been organized by civil society and the Judiciary,

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the inconsistent approach, narrow focus of awareness raising to specific human rights issues, lack of clear aims and format for interaction with public, and limited coverage means that more attention needs to be given to coordination and strengthening such activities. Equally, such programmes need to be better linked to a strategic framework for legal awareness and work to change social norms that current enable ongoing crimes like domestic violence, rape, and child slavery to occur with impunity, disempowering victims from taking action.

INSTITUTIONAL OBSTACLES
Based on interviews with some CSO and CBO it is apparent that from the perspective of the user, accessibility, negative perceptions regarding the integrity of the institutions, complexity of processes and systems, costs, and even fear of re-victimization remain substantial and real institutional barriers to access to justice. Any of these factors can effectively deter the most vulnerable groups from seeking or accessing justice regardless of the quality of services which would otherwise be available.

The institutional framework of the justice system in Nepal is complex. The institutional pathways for accessing justice remain very different for various groups and can be otherwise influenced by income, location or even ethnicity. While the diversity of potential entry points to the justice system is important to improve accessibility, understanding where, how and whom to approach to file a grievance or report a crime is often too daunting a task for the average citizen. In many of the marginalized and vulnerable communities there is generally a very low level of awareness of the availability of services, including free legal aid mechanisms, structured mediation centers, or the Women’s Police Cell. Various studies and interviews confirmed that general awareness of the availability of such services is typically very low, and can range anywhere from just 1 percent to 14 percent of the surveyed communities.

In some Districts one may find several mediation mechanisms, multiple providers of legal aid, quasi-judicial bodies, and the full range of formal security and justice institutions dealing in parallel with the same security and justice issues. Often various judicial bodies perform overlapping functions. While multiple laws spell out jurisdictional competencies and functions of each of the actors, in the absence of effective checks and balances it is common to find that some of the institutions exceed their legal powers regarding which cases they should adjudicate.

As an example, according to the Domestic Violence Act all cases of domestic violence should be systematically referred to District Courts, or, in accordance with Article 8 of the same law, only when the victim desires be reconciled with the assistance of the Police or local body officer (e.g. CDO). Article 8 is though contentious and a key contributor to domestic violence cases being mishandled by the police. The review noted that in a number of Districts in addition to adjudication in District Courts, such cases were referred to police led mediation, mediated by the CDO, mediated by a local mediation council or centre, or informally mediated by local community leaders where they may lack sufficient expertise to dealing with these sensitive cases. Even in serious crime cases, such as rape,

TAF A Study on Gender-Based Violence Conducted in Selected Rural Districts of Nepal, 2012
there are instances whereby numerous actors in the community engage in adjudication or mediation, including the police or CDO, though officially they should only go to court.

The lack of clarity in the operations and procedures is equally problematic in civil cases where a myriad of actors co-share jurisdiction formally and in practice. In many instances there is little consistency over which actor handles what type of case. Divorce proceedings can be brought forward to any of the community mediation mechanisms, CDO office, CSO/NGO37, or even the District Court which are officially the courts of first instance. The procedure and process for dealing with individual cases largely depends on who the victim informed in the first instance or which institution they were most familiar with.

While functionalities remain largely basic, the introduction of help desks in the police and courts has been noted to help demystify the respective institutions to the users and have also improved access to information related to the work and processes of the specific institutions. The limitation of these offices, however, is that they do not provide information or referrals to the full spectrum of institutions and mechanisms available across the justice sector. Equally, help desks are located in districts, but the most acute information deficits are faced in rural and remote areas. To get someone into court or a police station they have to overcome significant access to justice inhibitors. It is also notable that the help desks are currently underutilized and the number of services provided continues to be limited.

Lack of trust in the integrity and effectiveness of the formal justice institutions continues to be a key contributor to why users, especially from vulnerable and marginalized groups, shy away from engaging with justice sector institutions. In some surveys, only a third of women said they trusted the courts to some extent. Depending on the region, surveys also show that only 30 to 60 percent of the population trust the police.38 Overall, for many marginalized and vulnerable groups there is a continued preference for informal justice mechanisms. The formal institutions are commonly seen as subject to political interference and susceptible to manipulation, corruption, and not representative of the various caste or vulnerable groups. The stark differences in gender and ethnic balance in mid-senior ranks of the police, prosecution and judiciary are also critical factors influencing how the public perceives the effectiveness and responsiveness of those institutions (see section II capacity for further information). The perceived lack of integrity of the institutions to provide a fair verdict has on occasion influenced victims to use informal institutions, even in cases of serious crimes such as rape.

Equally, the extensive delays in court cases, whereby even simple civil or criminal cases can take more than ten years to reach a final verdict, often frustrate and deter users from pursuing such cases in the first place. While there has been some improvement in the expediency of trials through fast track procedures and improved case management systems, the lack of consistency and predictability in when and how cases are handled by the courts commonly frustrates users. It is often believed that to have an expedited case one needs to bribe the authorities or have strong political influence, neither of which is available vulnerable and marginalised groups.

37 CSO/NGO often perform a mediation function, can help organize legal aid, but can also provide legal advice.
Given the difficult topography, relatively high number of remote areas, and limited “all season” road network, gaining physical access to security and justice services remains a challenge for a large part of the population. While overall coverage has gradually improved year on year through new infrastructure investments and increased mobility of police and court services, there continue to be instances where people are located 2 days walk from the nearest police station or court. The long distances and lack of support services often prevent witnesses from appearing in court at short notice and for victims to pursue their cases if there are any postponements in hearings.

Often the stark differences in wealth between victims and accused/perpetrators presents difficulties in ensuring equality in the justice process. This is particularly the case when victims cannot afford postponement of cases and the associated costs of lengthy trials. For many people even the marginal associated costs of using the formal justice system can make access to justice unaffordable. Official and informal costs and fees have been noted to occur at every step of the process. Anecdotal evidence from a wide range of stakeholders interviewed during the study confirmed that police on occasion solicit informal or even illegal fees from victims for registering cases or travelling to crime scenes. Prosecutors have been noted to take fees for formally accepting to prosecute (or not to prosecute) cases. Court clerks are said to take fees for expediting cases on the docket. Even free legal aid services and mediation process have been noted to charge unofficial “tea fees’, which can include costs for travel, photo copies or use of facilities. Even small scale court fees, some of which are regulated, scare off court users.

Positively, the Government has removed the need for users of free legal aid to prove that their income is less than NRs 40,000 per annum in GBV cases, however, this requirement remains for all other criminal cases. In practice, the positive impact of this decision is compromised due to the cumbersome and/or corrupt process for attaining the necessary documentation and certificates of income. Women and youth without the right documentation or access to Government revenue offices often cannot attain the required proof of income. Equally, even the low financial threshold required for free legal aid disqualifies a significant part of the marginalized and vulnerable communities from accessing the service. Very small fees and associated travel costs are often prohibitive barriers to access to justice for a large part of the population. One positive step forward is the plan for the Government to provide financial and legal assistance for Nepali migrant workers in third countries.

Across Nepal there are over 123 languages spoken and the 2011 census has shown that only 44 percent of the population uses Nepali as their mother tongue. A sizeable majority of those who are not fluent in Nepali belong to lower caste groups and the most vulnerable parts of the population. Yet, courts use Nepali for all proceedings and documentation. While all courts have official court appointed interpreters, in many cases interpreters are limited in availability, absent altogether or only available in the actual legal proceedings. In some cases interpreters have been known to ask for significant fees. For many victims the language barrier is a primary reason why they use informal mediation, which is usually conducted in their local language.

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A large share of crimes in courts relate to sexual and gender-based violence and/or involve children. Victims and parties to such cases often require special procedures and systems to ensure that the process of seeking justice does not unnecessarily re-victimize them. For this purpose, the police have established the Women's Cell and courts have special in-camera procedures for cases of GBV. Yet, with a lack of an effective coordinated approach between institutions dealing with such cases, too often re-victimization occurs with the same questions being posed by various actors (judges, prosecutors, police, defence lawyers, and even social workers) at various stages of the legal process. In some cases, rape victims said they had to re-tell their story over five times. The underlying problem is caused by inefficiencies in the system, including transcripts from interviews containing only partial documentation of content from interview or the information simply not being shared between institutions. The quality of information attained in initial interviews by the police is often deemed insufficient during trial or not relevant to the needs of prosecutors or judges.

Some CSOs interviewed said they did not know about the in-camera process, which were not used during the GBV cases they were involved in, and where the victim was a child. In the case of the police women’s cell, while the first interviews are done exclusively in the presence of women police officers, the lack of middle and senior women detectives means that more advanced interviews with the victim are done solely by male police officers. There is an overall lack of gender sensitization across the justice sector, the exception being dedicated gender structures such as the Police Women’s Cell, but it has insufficient reach. Lack of gender sensitisation is partially explained by a limited number of judges and prosecutors undergoing specific gender sensitisation training. Some interlocutors interviewed from civil society voiced a concern that justice practitioners often have an indifference to gender considerations and gender issues in the justice system.

One of the key remaining obstacles for reporting crime is the lack of witness or victim protection mechanisms in Nepal. Witnesses and victims are often afraid to report or testify in trial or at police stations for fear of being further abused or harmed, including in cases involving state authorities. Many of the delays in criminal cases are frequently attributable to witnesses not appearing in court or changing testimony under duress. Social and medical care for victims is only available in a limited number of Districts or provided on an ad-hoc basis at the initiative of the police or legal aid lawyer. Social Legal Aid Centres (SLAC), which have been set up in five districts, have ensured that victims gain access to the appropriate socio and psychological support when requested. While addressing a critical need, there are looming questions about the coverage and sustainability of these centres in the absence of continued donor support.

**SOCIAL OBSTACLES**

For many women, marginalized communities and children, social barriers remain the primary obstacle preventing access to justice. The social barriers are vastly different amongst ethnic groups and can range from lack of economic empowerment, societal norms, traditional values, or even established practice at community level. It is notable that interviews with both state and non-state institutions confirmed that social obstacles to access to justice are found amongst the leading barriers to access to justice in virtually all districts in Nepal.
As an example, patriarchal values remain deeply entrenched among many ethnic groups and significantly continue to limit women's access to justice. As primary care takers in the household, and often without a source of their own income, women face economic empowerment challenges that limit their opportunity to bring cases to court independently. Women from marginalized groups, including the Dalit community, often do not have access to the family income stream to be able to pay for legal representation when the case involves conflict with the family, including the husband. Equally, for serious crimes women often hesitate to bring cases to court as they would not have the means to compensate for the loss of income associated with attending court processes. Women have similar considerations in cases of divorce or rape, as in such cases women often find that they do not have alternate housing where they could stay during and after the legal process nor the ability to secure a livelihood/required level of education to sustain themselves in the future. In such cases it is common to find that lack of economic empowerment forces women to reconcile cases in mediation. Considering the length, cost and complexity of bringing cases to court, many women and vulnerable groups are effectively powerless to pursue such cases in court on their own.

Domestic violence perpetuates and women are re-victimised due to societal acceptance of the behaviour and a pervasive culture of impunity due to the failure of the formal/informal justice system to take the crime seriously. Domestic violence cases remain pervasive in mediation processes, police stations and registered cases by prosecutors. However, women interviewed reported that at the informal village mediation level (e.g. when other family members interceded), when police became engaged, through community mediation, or in court, they were often encouraged to take a ‘Nepali conciliatory’ approach and remain in what would continue to be their violent relationship. They feel hopeless with no viable livelihood option than that of remaining in their violent relationship.

In many of the marginalized communities there is limited awareness and even outright rejection of the notion that marital rape or domestic violence is a crime. Some surveys have confirmed that in cases where women were aware of the law they did not take legal action due to external pressures. At times even attempts to report such incidence causes women to be expelled by their wider family or subject to further abuse for doing so. Stigma and societal values even influence the approach and services provided by formal institutions. In many cases victims noted that judges, police officers and prosecutors encouraged reconciliation or looked to uphold patriarchal values in both criminal and civil cases. In some instances, authorities give lesser consideration to cases brought forth by women.

ABUSES CAUSED BY STATE AND NON-STATE SECURITY AND JUSTICE PROVIDERS

To a large degree the abusive, if not predatory, behaviour and actions of state and non-state security and justice providers remains a key impediment to ensuring effectively and timely access to justice. In addition, the inability of the various institutions to provide services in line with legal requirements is often a violation of the legal obligations and responsibilities of those institutions. The following section provides a brief overview of some of the leading abuses committed by the various criminal justice actors.

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40 Information provided by UNICEF office in Nepal
Even though the frequency and scope of arbitrary arrest by police has year on year decreased, examples of arbitrary arrest and falsification of arrest records continue to be documented especially in the poorest regions. Politically marginalized groups, including members of the Tharu community, are amongst the most commonly targeted in such cases. With a high dependence on confession based approaches to investigation, coerced confession and torture of detained individuals remains common across Nepal. In some surveys, 1 out of every 6 adults in detention note they were subject to some form of physical abuse or torture. An Advocacy Forum report on torture noted that 17.6 percent of those held in police custody were subject to torture while similar findings were also uncovered by Amnesty International. Overall, according to some estimates, 1 out every 3 children in detention are subject to some form of torture. Children as young as four have been found in detention facilities. Police have been noted to exaggerate the age of children simply to avoid having to use the more cumbersome procedures and provisions afforded to children in legal processes. It is notable that many suspected cases of torture in detention are not investigated by internal inspection units of the police or otherwise dismissed in courts due to lack of medical certificates or other complementary evidence.

Some interlocutors noted that police purposefully omit key evidence from the record if it might inhibit an arrest. This is often caused by pressure for speedy results or to help inflate figures related to number of successful investigations. During the arrest process, police commonly fail to notify those detained of their right to legal representation nor do they provide an opportunity for those detained to notify legal representatives in a timely manner. It is also notable that police have in certain cases of rape or domestic violence been reported as being rough or abusive to the victim to pressure them to drop their complaint or accusation. In the occasional cases when detained individuals have access to their lawyers, consultations are frequently done with police presence in the room which violates the client-attorney privilege. In some instances police have been noted to openly deny or inhibit access of lawyers to clients, especially in cases where rights were infringed by the police during processes of custody or interrogation. With over 50 percent of trials being based on confession based evidence, it is notable that according to some studies a fourth of all confessions are gathered under threat of torture. In this regard, while established procedure requires that confessions are attained only in the presence of a prosecutor, in some Districts as many as 98 percent of confessions are gathered directly at the police station without the presence of the prosecutor.

Corruption is rife across Nepalese society and in Government. Nepal currently ranks 131st on the Global Corruption Index, placing it amongst the worst performing countries in tackling corruption. The security and justice sector is not immune from corrupt practices, with stakeholders citing frequent examples of corruption occurring at virtually all phases of the justice process. The common

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41 Information provided by UNICEF office in Nepal
44 Information provided by UNICEF office in Nepal
perception amongst legal practitioners is that corruption in the police and judiciary has worsened in the past few years. The most common corruption is petty and related to scheduling of cases or processing of investigation reports. In some cases, corruption has been known to take place in the procurement process used by institutions for works, services and equipment contracts. The most serious offences include bribery related to verdicts. Many CSO have noted that positive steps taken to train legal practitioners on handling cases involving GBV or children have been undermined by pervasive corruption in the process whereby bribes can quickly change the procedures and outcomes in favour of the defendant. In addition, victims have on occasion had to pay undocumented fees to have police investigate cases and/or for their FIR to be officially processed and registered. Users are often expected to pay bribes at virtually every step and to every judicial actor to have their case proceed. The police, who according to some surveys half of the population believes is corrupt, have had 13 of its IGP accused of some form of corruption in the period of 2005-2017. In the case of three former IGPs who were sentenced by the Supreme Court for corruption, it is notable that even after the court verdict the police did not arrest them, but the sentenced IGPs surrendered before the court on the promise their penalty would be reduced by 20 percent.

Various stakeholders from the judiciary and NGO community noted that political interference in the operational autonomy or independence of the justice institutions often skews verdicts in favour of state institutions, political leaders or other elites. Political or even affluent business actors often filter which cases should be investigated, prosecuted and politically pressure judicial actors to investigate or deliver judgements in their favour. Equally, some NGO have also reported that some witnesses are pressured by police to drop cases. In the case of the judicial function of CDO, some stakeholders questioned the excessively high conviction rate, which in most Districts exceeds 98 percent. Stakeholders also raised concern that CDOs inconsistently informed victims of their right to appeal to the district court and of the latter’s consequent lack of awareness of that right.

During court cases, even related to serious crimes, individuals are often tried in absentia and there can be long delays. As a result detention can exceed the maximum sentence for the given crime. This is largely due to limited resources and poor coordination between judicial actors in scheduling hearings. It is notable that no compensation is given to those that linger in detention and are ultimately found innocent.

The rights of those detained and imprisoned are systematically violated. State authorities openly admit that prison conditions fall short of meeting minimum international standards and the system treats individuals “like animals”. Basic food, shelter or sanitation facilities are lacking in most prisons. Most prisons are 200 percent over the maximum capacity. While some improvement has occurred in recent years, Nepal ranks 32 worst in global rankings of prison overcrowding with an overall 178 percent occupancy level. There are frequent cases of prisoner over stay due to irregular follow up

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51 http://www.prisonstudies.org/highest-to-lowest/occupancy-level?field_region_taxonomy_tid=All
from prison staff, courts and lawyers of the status of individual confined to prison. Currently, pre-trial detention cases account for almost 60 percent of all detained individuals in prisons.\textsuperscript{52}

**JUSTICE SERVICE DELIVERY**

Although access to security and justice services has gradually improved across the entire sector year on year, significant gaps remain and progress has not been uniform across all Districts and institutions. The experience of accessing justice services varies and is influenced by factors such as geography, caste or social standing of the individual. The following section outlines some of the strengths and weaknesses of the security and justice services provided by state and non-state security and justice institutions to citizens.

**CRIME PREVENTION**

Due to limited mobility and a heavily centralized system of operations focused on service delivery at central and district level, the police have at times struggled to deploy effective crime prevention strategies across communities and more specifically in rural and remote areas. Communities often cite lack of proactive strategies by the police to tackle sex trafficking or child exploitation, preferring to rely on NGO and CSO to perform such functions. The challenge is further complicated by a lack of an effective country-wide community policing strategy. Community policing is often confused with de-concentration of staff from central to community levels or intelligence led policing strategies, which are complementary strategies but not entirely the same. In areas where community policing structures and approaches have been rolled out and focus on creating collaborative approaches between the police and communities, and on empowering communities to define the relevant threats and responses, they have proven to improve trust in the police and their ability to prevent crime. In Kathmandu and in various rural areas the effectiveness of the prevention capabilities of the police is also limited by lack of transportation, fuel, and staffing constraints.

**INVESTIGATION**

The investigation capacities of the police in many rural areas remain largely rudimentary. The inefficiencies and ineffectiveness of investigation is largely attributed to the poor system of police training at rank of constable and above limited operational resources (funds and equipment) to conduct and follow up investigations. It is notable, however, that in 2017 significant infrastructure and training support from US, China and India was provided through parallel programmes aimed to fundamentally change the system of training as well as build new training academies (see donor mapping in annex A).

According to informal estimates, roughly 30 percent of clear cut cases are lost because of the poor capacity of the police and prosecution to collect and follow up on evidence. While a new forensic lab has been established within the Nepal police, outside of the Kathmandu Valley there continues to be an over-reliance on confession based investigations. The forensic labs handle over 5000 cases annually. Some interlocutors have argued that the potential to deploy such capacity is three fold but constrained because of need for expediency in investigations, limited technicians in forensics labs,

\textsuperscript{52} [http://www.prisonstudies.org/highest-to-lowest/pre-trial-detainees?field_region_taxonomy_tid=All](http://www.prisonstudies.org/highest-to-lowest/pre-trial-detainees?field_region_taxonomy_tid=All)
and lack of awareness and skills of mid ranked detectives in districts to understand when forensic evidence should be pursued or is relevant source of evidence. The forensic labs also have a significant backlog that often does not allow them to process evidence or samples within the required 25 days limit under which suspects can be held in police custody before being brought to court. In addition, prosecutors and judges rarely demand multiple source evidence even for complex criminal cases and thus there is limited emphasis on using such advanced tools for evidence collection.

Prosecutors continue to lack systematic collaboration with first responders, including hospitals, to ensure that in criminal cases they become critical elements of the evidence collection process. Medical examinations in cases of rape and domestic violence are often insufficient or poorly documented to withstand judicial scrutiny. In a large part prosecutors admit that many simple cases are lost because of a failure to collect enough evidence. A Supreme Court order requires sharing and disclosure of prosecution evidence with the defence, but this often does not happen which often undermines the defence case.

**INFORMAL JUSTICE MECHANISMS**

Roughly 90 percent of Nepali has a preference for informal justice mechanisms because of their accessibility, speed, and user friendly procedures. Not including state led mediation, there are over 12 parallel mediation processes and structures led by local lawyers, religious and community leaders, or established by NGO. The mechanisms and structure for mediation largely depends on the region or users/ethnic groups. Some are set up as informal structures in the format of a council while most commonly such mediation is supported by a network of mediators. There are over 4,200 registered mediators providing mediation in 134 Village and District Committees.  

Significant steps have been taken by the Government, Judiciary and NGO community to ensure that mediation mechanisms are strengthened in quality and accessibility across the country to meet the substantial demand. With a resolution rate ranging from 80 to 95 percent, mediation has played an important role in ensuring a basic level of access to justice for marginalized and vulnerable groups. Community mediation has also been preferred because of its focus on social harmony in the community, preventing a culture of unnecessary litigation, and even promoting restorative justice elements. The challenge, however, has been that the popularity of mediation has encouraged mediators to overstep their jurisdictional boundaries and resolve cases, such as rape or even attempted murder, which are strictly under the competency of the judiciary. Equally, as civil cases grow in complexity (see section on civil cases) mediators have often lacked the knowledge or expertise to engage on the issues presented for mediation. The quality of mediation varies significantly from one region to the next and mediators are still criticized for their limited awareness and adherence to human right norms or lack of gender sensitivity. Similar to courts, a number of mediation mechanisms have struggled with execution of judgements or to have both parties to the dispute attend mediation sessions in timely manner.

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53 [https://asiafoundation.org/resources/pdfs/CommunityMediationinNepal.pdf](https://asiafoundation.org/resources/pdfs/CommunityMediationinNepal.pdf)
54 [https://asiafoundation.org/resources/pdfs/CommunityMediationinNepal.pdf](https://asiafoundation.org/resources/pdfs/CommunityMediationinNepal.pdf)
LEGAL AID

Nepal has guaranteed by law access to free legal aid for all citizens. In practice, critical gaps remain in the functioning, quality and coverage of the legal aid system. There is currently no coherent and uniform system of legal aid. There are officially two formal systems for legal aid services: one organised by the Supreme Court (court appointed lawyer) and one by the Ministry of Law and Justice (MoLJ) together with the National Bar Association (Central and District Legal Aid Committees (DLAC)). In parallel, legal aid services are provided by NGOs. While all District Courts have a court appointed lawyer, DLAC are not available in 27 districts. Social Legal Aid Centres, which provide both legal aid and psycho-social support to victims, have also been established in 5 Districts. While the scope of legal aid services provided by NGO is generally wider than those provided by the formal systems, their delivery largely depends on donor funding, donor priority issues and donor target regions. This means that in practice coverage is not uniform over time and tends to be largely transient.

Comparatively, NGO supported legal aid services tend to be more focused and specialised on specific issues areas and therefore many areas vulnerability or needs are not covered. There is currently no available mapping of legal aid services across Nepal which could otherwise provide a clear picture of gaps in coverage. Anecdotal evidence from various stakeholders reaffirms that in practice some communities, including large urban areas, continue to lack sufficient legal aid services or even any permanent legal aid provision. Stakeholders have acknowledged that the current supply of support is unable to meet the full spectrum and diversity of legal aid needs of communities.

In the absence of clear data on case load, it is estimated that the cumulative case load across quasi-judicial bodies is roughly half the case load of District Courts. In quasi-judicial processes there are limited instances whereby legal aid or defence lawyers are provided. In most cases, defendants come into first contact with their legal representatives only during arraignment. Even in District Courts due to limited availability or thresholds for eligibility being set too high, many defendants and victims appear in court without any legal representation, including in complex criminal cases. A commonly cited criticism of legal aid is that the quality and duration of support being provided through such mechanisms varies significantly across the country. In some Districts users choose not to use legal aid due to the perceived poor quality of lawyers assigned to legal aid. They prefer to hire lawyers from Kathmandu who have a significantly better reputation but charge higher fees. Court appointed legal aid providers are usually engaged in private practice in parallel to providing legal aid and have been criticized for giving preference in their time and resources to private cases at the expense of legal aid cases for which they receive Government fees and subsidies.

PROSECUTION

On average the successful prosecution rate ranges from 65 to 75. In comparison, the conviction rate of cases handled by the CDO is as high as 95 percent. The judiciary has seen an increase in its case load year on year in both criminal and civil cases. While gains have been made in reducing the average length of certain cases, including rape and domestic violence cases, some interlocutors have noted that there can be disparity of even years in how long similar cases take to conclude. As an

55 http://www.unafei.or.jp/english/pdf/RS_No80/No80_23PA_Parajuli.pdf
56 Interview with CDO in Sindupalchuk
example, while the number of continuous hearings for GBV related cases has grown year on year, such processes are only applied in a select number of District courts. The inconsistency in many of the cases is simply due to poor scheduling, lack of tracking on holding such hearings, or abuse of postponement requests by legal practitioners. According to some interlocutors the disparity in how long cases take is an indication of corruption or bribery by one of the parties to the case. More worryingly, the greater case load and emphasis on speed has according to some legal practitioners caused the overall quality of judgements to progressively deteriorate.

In relation to juvenile justice, the measures for diversion, restorative justice and alternate sanctions are not established in law. While 56 juvenile benches have been established, procedures and systems for such hearings remain underdeveloped and there is inconsistency in how such hearings are conducted. It is notable that in cases whereby adults and juveniles in conflict with the law are part of the same case, normal procedures are followed in court, the two parties are tried in court together, and no special provisions are made to protect the child in conflict with the law.

**EXECUTION OF JUDGEMENTS**

While some progress has been achieved in reducing delays in cases, in contrast execution of judgements has seen only marginal improvements. The periodic refusal of political actors and the police to act on court judgements has impacted public confidence in the judicial process. Commonly, judgements of the Supreme Court are overlooked or are selectively applied. Court decisions related to state authorities or institutions are inconsistently enforced. The courts have also had poor results in collection of fines ordered by the courts. The notable exception has been a decrease in arrears from civil cases.\(^{57}\)

**INCARCERATION**

Incarceration rates have increased over time with the development of new legal standards and harsher sentencing guidelines for specific crimes and improved investigation capacities of police. In Nepal it is clear that the prison system is the weakest link in the criminal justice chain. Standards of service are significantly below those of other institutions in the chain. The official capacity of the 74 prisons in Nepal is roughly 10,600, yet the current prison population exceeds 18800 prisoners. It is notable that due to a more effective justice system, improved investigation capacity of the police but also growing use of the formal system for dispute resolution, the prison population has doubled in less than a decade. In 2008 there were only 8,401 prisoners while in 2014 there were 16,813. Women account for less than 8 percent of the overall prison population.\(^{58}\)

According to some studies, up to 83 percent of prisoners in Nepal suffer from health issues\(^{59}\); yet, there is no Government provided service or system of psychosocial support in the prison system to address the acute needs of prisoners who suffer from mental illness. Equally, there is no system of rehabilitation available to prisoners and no established system of probation or alternate sentencing. This means that many of the individuals that are incarcerated are poorly equipped to reintegrate into

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\(^{57}\) Third Five Year Plan of Judiciary 2014- 2019

\(^{58}\) [http://www.prisonstudies.org/country/nepal](http://www.prisonstudies.org/country/nepal)

\(^{59}\) [https://jhvalkhana.wordpress.com/about-nepals-prisons/](https://jhvalkhana.wordpress.com/about-nepals-prisons/)
society upon release. In addition, there are limited medical facilities and opportunities for education and training, despite prison regulation (e.g. ‘regulation 2020’) guaranteeing such provisions. While there is no formal and systematic approach to release on parole, in practice it is estimated that up to 40 percent of those in prison serve reduced sentences because of an informal, yet well-established, system of executive pardon. Alarmingly, due to insufficient prison staff and facilities, security of inmates in prison is commonly structured and organized by the prison sub-culture rather than by prison officials. Prisoner hierarchy and groupings largely influence how order is maintained within some of the major prison facilities. Similar poor condition of infrastructure and lack of services is found in juvenile correction homes as well. There are only three child correction homes and various reports have noted that they lack basic infrastructure and rehabilitation systems.  

LOOKING AHEAD AND EMERGING ISSUES RELATED TO SERVICES AND NEEDS

With the gradual roll out of legal awareness programmes by the judiciary and donor community, greater access to information through media, and growing exposure of the population to international legal practice through migration, there is a gradually emerging activism and expectations amongst even the most marginalized groups that their human and legal rights can be protected through the justice system. In addition, new human rights guaranteed through the new Constitution are likely to lead to a growth in mediation and formal court cases. This includes the likelihood that cases related to discrimination, right to food, banning of slavery, land rights, partition of parental property, right of employment, rights of sexual minorities, and citizenship will grow or emerge in prominence on court dockets. In this regard, it is expected that the overall demands on the justice system will continue to increase in the coming years. The challenge will be to ensure that the justice system has the skills and capacity to deal with these emerging areas.

In addition, the Government together with the Oslo Center and Nepal Law Society have identified over 300 laws to be amended or drafted to ensure conformity of the legal framework with provisions of the new Constitution. The Constitution provides a grace period of 2 years within which existing laws are to be developed or revised. By mid-2017 the Government had identified and prepared 60 laws to amend or draft as a matter of priority, but it increasingly acknowledged that it does not have the resources to revise all the necessary laws in the given period. Changes to the legal framework will range from substantive to minor. Legal education for citizens, but also legal practitioners, about these new rights and responsibilities will be needed. This should increase the demand for justice and capacitate legal practitioners to respond properly. As the legal framework changes a key challenge will be to ensure that laws are amended and drafted in an inclusive manner representative of the diverse needs of the full spectrum of society in Nepal.

With extensive support from UNDP, Japan, and Nepal Law Society in drafting, in October 2017, the Penal Code and Criminal Procedure Code were passed by the parliament and signed by the President. These laws are expected to fundamentally change the justice system and justice delivery. This includes services, penal policy and even responsibilities of criminal justice institutions. As a result of these landmark laws it is likely that the criminal justice system will go through wholesale changes in

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60 UNICEF Child Protection Mapping and Assessment  
61 Interview with Ministry of Justice
the coming years. New provisions in procedures and sentencing, such as plea bargaining or community sanctions, in addition to new systems, including probation, are all expected to be introduced in provisions of the laws. The new criminal procedure code will require substantive changes to structures, systems and training of all legal practitioners. This will have both financial implications but will most importantly require strengthening management and oversight mechanisms to ensure that the new discretionary powers and processes are used appropriately.

SECTION II: INSTITUTIONAL CAPACITIES AND MANAGEMENT

This section explores the institutional capacities and management systems across the state criminal justice institutions. In addition, the section review the ways that the actors coordinate actions, policies and activities amongst themselves both at operational and strategic levels. The overall aim of this section is to analyse the extent to which the institutional capacities and systems are effectively managed to enable them to respond to the security and justice needs outlined in Section I.

Since 2007 significant investment and attention has been given to strengthening the infrastructure and capacities available to the justice and security sector institutions. This trend is likely to continue, with the 2017/18 budget priorities for Government especially highlighting a need to improve infrastructure, equipment and professionalization of the police. While there remain important gaps in training and infrastructure, this is no longer the area that is the primary obstacle for access to justice and security. Overall, comparatively far less attention has been given to ensuring that reform of the management systems keeps pace with the growing capacity, including numerical increases in staff and growth of new structures (eg. expansion of police stations or help desks in courts). Currently, the imbalances between the relatively weak management systems and growing capacity have stymied the impact and cost-benefit of the overall investment in infrastructure, training and recruitment.

MANAGEMENT POLICY

The justice sector has started one of the most ambitious reform processes in Nepal’s history whereby fundamental and unprecedented changes to structures, legal frameworks and policy are underway or planned for the following few years. Despite the high level of ambition in reform and the significant number of implicated moving parts, there are questions regarding the extent to which there is a vision or clear policy direction to ensure coherence between the various tactical level reforms and the strategic aims. Such a policy framework could otherwise ensure clarity in the overall aims of the reforms and outline the type of justice system that the various reforms are aspiring towards. In practice, the understanding of the desired cumulative effect of all the reforms differs from one institution to the next. Starkly different interpretations of the policy direction were also evident amongst staff at mid-management and operational levels of the various institutions compared to the vision and priorities noted by senior leaders during the interview process for the assessment. The vision and policy direction is often confused or limited to description of desired capabilities. A vision, which could be articulated through an overarching policy for criminal justice or for penal reform, should first and foremost define the type of criminal justice system that Nepal is aspiring to build.
(e.g. punitive or restorative focused system, equality of arms of justice, and service delivery oriented approach). The challenge, however, is that the responsibility for development of policy in the justice system is a shared between the OAG, Ministry of Law and Justice, and the Supreme Court. Due to mandates and stark defence of autonomy and independence by each institution in the criminal justice chain, it remains unclear to what extent there is willingness to coordinate at policy level or who should initiate sector wide policies.

The judiciary, prosecutors and police all have strategic plans that contain both critical analysis and also a mix of strategic and tactical level reforms. Notably, the Nepal prison system is the only institution without an overarching strategy. The Judiciary has through its third strategic plan demonstrated considerable capacity to draft strategies, high level ownership and commitment to strategy implementation, ability to develop analysis to underpin the strategy development processes, but also the ability to develop a rudimentary monitoring and evaluation framework to keep track of progress. In comparison, the OAG lacks a clear monitoring and evaluation system for tracking the implementation of its strategy. Ownership of the OAG strategy has remained uneven especially amongst turnover of leadership and there remain questions related to the affordability of the proposed actions.

Across all three strategies there was concern over their over ambitious nature and the availability of financial resources to implement the various reform targets. Some stakeholders have noted that the strategies more closely resemble “aspiration” rather than blueprints of what will be done. The judiciary itself acknowledged that in previous plans the budget shortfalls for effective implementation ranged from 50 to 30 percent. It is notable that pension and remuneration of the judiciary staff, namely judges, are omitted as key reform targets in the Strategy yet there are two key bills related to these areas of reform pending before Parliament. The omission, which is likely to have significant financial cost implications, highlights a potential disconnect between actual priorities and the stated priorities in the strategy.

Across all levels, including both operational and senior management within security and justice institutions, there is wide acknowledgement of the challenges of access to justice for vulnerable groups and minorities, gender responsiveness, and need for more inclusive and representative institutions. Yet, it is notable that these are areas which the various reform strategies provide only scant references to and propose few concrete steps regarding how they will be tackled in practice. Some interviews noted that this is because the strategy development process is not inclusive enough, but also reflects the lack of political will to appropriately tackle these issues. Also, the existing strategies, drafted prior to the enactment of the new Constitution, do not take into account the various reforms of the system that will stem from the provisions of the New Constitution. This includes the establishment of 756 judicial committees, nor the required reforms that will need to support implementation of the criminal and civil codes. In this regard, the strategies remain largely static, rarely being reviewed for relevance or updated to ensure relevance with changes in context, performance or budgetary limitations. Such a review of relevance of strategies is only done on an ad

62 It is notable that the inclusion of pensions is foreseen in the 2017/18 budget
hoc basis but also stems from inadequate monitoring/evaluation systems being in place to systematically gauge and track the extent to which the strategies are being implemented.

CASE PRIORITIZATION

Considering the significant case backlog found in the courts, the review did not find any examples of policies or guidelines on case prioritization. Such policies typically help to ensure limited investigation or prosecutorial resources and time are committed to the most acute cases and needs. Some stakeholders noted that to improve case dispensation statistics, prosecutors and court administrators often prioritised minor offence cases above serious criminal cases, including those related to rape or domestic violence abuse, because these simply took more time due to their complexity. As a result complex criminal cases could often linger in court for years due to lack of prioritisation. The existing case tracking mechanisms and data does not clearly indicate what type of cases prosecutors and courts prioritize in practice. It is also notable that prosecutors lack clear guidelines and mechanisms that would otherwise provide quality control for ensuring that cases are sufficiently justified by evidence before official charges are filed in court. This could otherwise help prevent frequent occurrences of prosecutions being dropped mid-way through trial due to insufficient evidence.

BUDGET

While the budget of the security and justice sector institutions has continued to grow in line with cross the board increases in the national budget, it is notable that the budget spent on the sector represents roughly 3.95 percent of the overall projected national budget for 2017/18.63 Across the national budget, the national fiscal priorities are the agriculture sector (6.35% of total budget), transport sector (9.24% of total budget) and education (5.01% of total budget). The spending on the justice sector, however, is broadly in line with regional averages64. This figure does not include costs associated with quasi-judicial bodies, which nonetheless are likely to be limited.

The restricted overall spending in this sector confirms the lack of prioritization of security and justice reform by Government. Furthermore, while the overall projected budget for the sector is anticipated to grow by 12.28 percent from 2016/17 to 2017/18 budget, this is significantly less than the projected increases in the overall national budget in the same time period, which is anticipated to be 30.8 percent.

The Government has continued to reject calls by the Judiciary to earmark at least 1 percent of the overall national budget for the Judiciary. In the 2014/2015 annual budget, the actual disbursement for the Judiciary equalled roughly 0.4 percent of the overall national budget. It is notable that in the 2014/15 the actual expenditure and disbursement by the Judiciary was 22.28 percent less when compared to the projected expenditure for the same year. In comparison, the overall national budget shortfall (actual vs planned expenditure) for the same year was roughly 3.37 percent.

Continued underspend of budget by the judiciary was raised as a concern by both non-state actors but also senior officials of the Judiciary. The fluctuations between planned and actual budget have complicated planning processes but also raised uncertainty as to how much money (capital budget) is available for financing new reforms. The underspend in the judiciary in particular points to both a need to strengthen public finance management capacity but also a need to ensure reform of the judiciary remains a financial priority of Government.

The independence of the judiciary continues to also be impacted by the lack of financial autonomy. Budgets submitted by the Judiciary continue to be reviewed and revised directly by the Ministry of Finance. In this regard, proposals for a budget formulation process that would allow the Judiciary to submit its budget based on agreed ceilings directly to the Parliament, bypassing the MoF, have continued to be rebuffed.

Across the sector the police receive roughly 81 percent of the budget committed to the sector. The lack of balanced funding is a key contributing factor to the asymmetry in capacity across the institutions in the sector. While the largest percentage increase in planned expenditure was given the Prisons, Courts and Office of Attorney General (40%, 22.9% and 21.4% respectively), compared to only 9.39% increase for the police, in gross figures the increased budget in 2017/18 allocated to the police exceeds the gross cumulative increase of budget for the rest of the sector. The priorities outlined in the budget confirm that police reform remains the actual priority of Government compared to other institutions in the sector.

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<td><strong>Total</strong></td>
<td><strong>38,767,630</strong></td>
<td><strong>+12.28%</strong></td>
<td><strong>43,841,790</strong></td>
<td><strong>100%</strong></td>
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**MANAGEMENT SYSTEM**

In line with other sectors in Nepal, the security and justice institutions all deploy a heavily centralized management system. All key decisions related to expenditure, personnel, strategy, infrastructure, and overall reform priorities are made at the central level, and often directly by senior leadership, often with little input or consultation with subordinate staff based in Districts or local levels. As the number of staff and subordinate structures across all the institutions continues to grow year on year,
this centralized system of management is becoming even less fit for purpose and remains a key limiting factor for the minimal cost-benefit and the potential impact of additional spending on capacity and infrastructure.

With only a limited delegation of management powers related to strategic matters, the current systems of management have been criticized as being unresponsive to emerging needs at local level and for not being able to effectively tailor strategy to diverse needs of the communities or districts. Too often within the police and judiciary even minor administrative issues from the District level are referred back to the Central level for guidance or resolution. This top-down approach to management discourages initiative and pro-activeness from middle management staff. Overall, across all three institutions District and community-based staff that were interviewed during the study noted that they are inconsistently made aware of or consulted in processes of policy or strategy development and feel full ownership of policy development is at the central level.

Equally, while all institutions have increased the quantity and frequency of reporting from community and District levels to the central level, feedback or responses from central level remain irregular if not missing altogether. The scope of the various reports gives little information to managers on system issues that need to be addressed or analysis of emerging trends/issues at the community level. In particular, little information is provided to the OAG concerning what measures were taken by attorneys to investigate cases, why prosecution was not successful or why prosecutions are dropped. While there is a reporting mechanism in place for attorneys, there is inconsistent adherence to it and information provided through such reporting is insufficient to inform policy or strategy development. Of note, critical analysis and data on re-offending rates or criminal trends in communities seems to be lacking or incomplete.

Overall, managers across the sector, including heads of institutions, that were interviewed during this study acknowledged that they do not have the tools nor systems in place to systematically keep track and oversee the work of their subordinates. This is in particular an area that is increasingly worsening as many of the managers are seeing growth in staffing numbers and are expected to oversee a growing number of field offices at local Government level.

Across the sector the performance management systems remain underdeveloped. In the case of the prison system, performance management for staff is lacking altogether. While some data is being collected and processed through regular reporting to the responsible line Ministry or central administration of the Judiciary, across all institutions the capacity and tools to effectively utilize and analyse the data are largely lacking. The priority focus is raw quantitative data. The scope of such data is largely limited to case dispensation, which is in line with a clear priority in the Judiciary on improving the speed of case flow. While access to justice needs and obstacles are different across the society, none of the data on court cases or prosecutions is systematically disaggregated by gender or ethnicity. Due to little direct observation or monitoring, little data and analysis is available concerning the quality of judgements or investigations.

One of the critical challenges in management of the institutions is the lack of independence and frequent political interference in operational matters related to the criminal justice institutions. There is concern that the police and prosecutors continue to be susceptible to political direction and
interference regarding individual investigations or prosecutions. This is particularly the challenge in high profile cases presented in media but also in cases involving the state or political representatives. In the case of the police, the Ministry of Home Affairs retains in practice a significant and direct management role in operational matters of the police. Across the Judiciary political pressure regarding judgements or case handling also remains a key concern. The lack of de facto operational autonomy and independence of these institutions severely impacts the effectiveness, efficiency and integrity of their work. In the case of the Judiciary, while there are continued examples of members of the Judiciary at all levels showing courage and resolve to protect the independence of the judiciary, many stakeholders noted that overall the Judiciary has become more susceptible to political interference in operational matters in recent years.

The lack of systematic records keeping for instructions handed down from senior to junior staff, including from Ministries to operational staff makes the institutions and staff more susceptible to manipulation. This is particularly the case when such instruction pertain to prosecution of cases or investigations of specific cases. Across all institutions there is an over reliance on phone calls and SMS for communication between senior managers and staff. Ensuring that all instructions are in written form can at least ensure that there is basic transparency in the relationship between political actors and operational staff and reduce undue political interference in prosecution or investigation of cases.

In both the Judiciary and OAG one of the key priorities is to introduce and roll out across the country a specific case management and tracking system. It is expected that with the technical and financial assistance of the Japanese Government, a standardized system will be rolled out across the judiciary within the next two years. In comparison case management system for the OAG is still largely in development and it remains unclear if this system will be integrated or have interface options with the system developed for the judiciary.

The powers and jurisdiction of quasi-judicial bodies is defined in a large number of specific laws rather than a singular legal framework governing their work. In practice CDO handle the significant number of cases and represent one of the most common entry points for individuals into the formal justice system. While some procedures and processes for cases related to Some Public Offence and Punishment Act (2027) are established, for all other cases under the jurisdiction of the CDO there are no written procedures or rules for case management. The lack of a clear regulatory framework leaves individual CDOs with a high level of discretion to manage and exercise their adjudication functions. In practice there are significant variations in the way cases are handled by individual CDO. This often manifests itself in inconsistent access by users to legal representation, lack of consistency in application of process, and unclear processes for filing complaints or appeals related to individual cases.

65 Specific legislation related to CDO judicial functions: Local Administration Act 2028, Some Public Offence and Punishment Act 2027, Arms and Ammunitions Act 1962
Effective human resource management continues to be a significant gap across the justice sector affecting all institutions. There are key shortcomings in the integrity and independence of the recruitment processes. All institutions have very elementary formal systems of staff appraisal and performance monitoring. In the absence of clear job descriptions staff do not have clear benchmarks against which they can be held to account for performance. Across the institutions there are a significant number of political appointments in middle to senior level position, a practice which is largely enabled due to lack of clear promotion or recruitment criteria. Often the professional requirements for senior positions place significant importance on years of service rather than soft skills or performance criteria. The lack of clear and transparent promotion systems in the police are blamed for encouraging corruption, as often police are expected to pay superiors to get promoted.

In the OAG and Police, there are frequent rotations of senior leadership by the Executive. In the past five years the leadership of both institutions has changed on at least an annual basis, and sometimes at even shorter intervals. It is common practice in Nepal for the OAG to resign once a new Prime Minister is elected. In this regard, from 2008 to mid 2017 there have been 8 Prime Ministers. The revolving door of leadership across the justice system has contributed to poor morale, lack of trust in the institutions, and has severely impacted continuity and strategic direction in the reform processes of the institutions. In the case of the Judiciary, the dominant role of the executive on the Judicial Council, which is responsible for appointments of judges, has contributed to concerns about the infringement of the executive on the independence of the Judiciary. In this regard, out of 5 positions on the Judicial Council two are staffed by members of the Judiciary while 3 come from the Executive.

In the police the irregularity and lack of transparent selection process for senior managers leads to various appointments frequently being challenged in court and has impacted morale within the institutions. Previous attempts to form a Police Service Commission to administer and manage recruitment and promotions have continuously failed due to lack of political will from the Executive to transfer power and responsibilities of appointment to a professional body.

While the salary of District Court judges is comparable to senior civil service positions, due to limited opportunities for career advancement, demanding recruitment criteria and low salaries, both the Judiciary have struggled to fill all positions in administration and junior posts. The OAG, which has comparatively lower salaries to the judiciary, has experienced even more acute challenges in recruitment at all levels. There are an estimated 100 vacancies in middle to low level positions within the OAG and over 300 vacancies in the judiciary in administrative and support positions. Despite frequent announcements of vacancies, there are recurrent examples where not a single candidate applies for vacancy notices in both the judiciary and OAG. While efforts have been made to increase salaries and improve working conditions, including by offering bonus pay, only marginal improvements in recruitment has occurred. Poor working conditions and pay are key contributors to low morale in the OAG and a critical reason why posts remain vacant. In view of the likelihood of a

constrained budget, the judiciary will have to make difficult choices of either loosening recruitment criteria or consolidating positions and increasing the salary and status of individual posts. While the police have managed to ensure that all permanent positions are filled, low pay in junior and middle ranks has been cited as a key contributor to low morale and corruption. Nonetheless, it is important to note that since 2010 the overall number of police officers has grown by 20 percent to over 72000 staff in the Nepal Police. As the justice system is rolled out at the provincial level with new policing and other structures anticipated, some interviewed voiced concern that these positions would be staffed by less competent staff who could be compelled to leave ‘better jobs’ in Kathmandu and other centres.

There have been growing concerns over the increased politicisation of the Judiciary. In particular interlocutors and various reports by NGO have noted that the Judicial Council recruitment processes lack transparency and are inconsistent in ensuring that qualified judges are appointed, leading to fears of political influence over the appointment processes. Ensuring that Nepal’s Judiciary is inclusive and representative has been a long-standing struggle. Inclusive institutions, however, are critical to ensure that the justice system remains responsive to the unique needs of the full spectrum of society. Currently, out of 165 District Court judges only one judge is a woman. While in the overall judicial sector women hold roughly 14 percent of the positions, such positions are predominantly in lower ranks and administrative functions. A little more than ten percent of all practicing lawyers are women. This overall under-representation of women in the judicial sector has remained largely unchanged for over 5 years. The expectation is that the increased number of women law students will eventually trickle up towards judicial bodies. Such a passive approach, based largely on assumption or hope, has proven to have negligible results in recent years in reducing gender or ethnic parity.

85 percent of judges are persons of Brahman ethnicity, despite the fact that Bhraman account for only roughly 16 percent of the population in Nepal. The Janajati group holds close to 9 percent of the remaining positions even though they represent 36 percent of the overall population. Roughly one percent of all judges come from the other 130 ethnic groups in Nepal that represent roughly 40 percent of the population. Various positive discrimination practices have been instituted in administrative positions which have positively contributed to the slightly higher representation of women and other ethnic groups in these positions; yet, no such provisions have been introduced for the Bench. It is notable that within the Judicial Council, which is tasked with overseeing promotions and recruitment, there are currently no female representatives. There is currently no strategy in place to rebalance inclusivity in the Judiciary. Similar imbalances in gender are found across the prosecution and police. In the police, few women are found in middle or senior officer positions. Rather, a large proportion of women are confined to serving in administrative roles or in the Women’s and Children cells.

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68 Interview with National Police
70 https://www.spotlightnepal.com/2013/08/30/judiciary-judging-judges/
71 National Judicial Academy, Gender Equality and Social Inclusion Analysis (2013)
One of the gaps in capacity building in the sector is the relatively uneven quality and relevance of knowledge attained by students in Nepal’s Law Schools. There is no system of specialization in law schools, rather all students graduate as generalists. An often cited criticism of the education system is that much of the legal education overly focuses on theory of law rather than emerging areas of legal practice. This system of education is a contributing factor for the deficiency of specialized legal professionals across the judicial sector. Rather, much of the practical education of young and aspiring lawyers takes place in law firms or directly in judicial institutions.

There is currently no system of continuous legal education for legal practitioners in Nepal. Much of the supply of training is linked to donor or NGO programming activities and thus remains highly transient or dictated by supply rather than actual needs. While the Judicial Academy is considered to have a high degree of capacity in both organization of trainings and delivery, it lacks sufficient expertise to address increasing calls for specialized trainings. The spectrum of training needs for judges remains vast and spans from basic training on writing of judgements to specialized training on emerging criminal and civil law issues (see section 1). The Judicial Academy’s limited and uncertain funding means that the judiciary has limited capacity itself to cover its vast number of training needs, especially in specialized areas of law.

In the absence of dedicated training academies, the Judicial Academy currently also serves as the primary training center for prosecutors and quasi-judicial bodies. The training of court administration staff falls under the Judicial Service Training Center which is managed by the Ministry of Justice. The most significant training needs identified for court staff were related to customer service to help ensure that courts are better service providers and people oriented. The Nepal Bar Association also delivers trainings for lawyers, but these vary in quality and impact due to an absence of dedicated capacity to managing curriculum development or training delivery. There is no existing training needs assessment and identification of training needs for either lawyers or prosecutors. A more basic training identification process for judges has been completed. Across all institutions there is poor tracking of which training has been received by individual staff. It is important to note that national institutions and recipients of training that were interviewed noted that a large number of national NGO have a positive track record in organizing and delivering trainings for legal practitioners and there is often no need to find external/international experts to organize or deliver trainings. Rather, the challenge is findings adequate financing to procure such trainings.

In consideration of the continuously changing legal framework, there is often little awareness of new jurisprudence. Few mechanisms exist to ensure that such jurisprudence is effectively disseminated and sensitization on scope and intent of amendments is provided to interested staff. As a result it is common to find that judges and prosecutors rely on outdated laws in court.

In contrast, with support from China, India and the United States the Nepal Police have gradually revamped much of their training system and infrastructure. In particular, in 2017 a new training academy for the Armed Police Force was opened with Chinese Assistance. The Nepal Police Training Academy in the meanwhile is being slowly refurbished and new infrastructure being built with Indian
assistance. Much of the training curriculum in the Police Training Academy is being slowly reformed with US INL assistance.

**INFRASTRUCTURE/EQUIPMENT**

Overall the judiciary and the police have significantly improved their infrastructure since the end of the conflict over a decade ago. The judiciary currently has functioning courts in all regions and the police are in the process of refurbishing a large number of police stations. This is a remarkable achievement given that a decade ago few permanent facilities were available to the courts and the conflict had destroyed a large percentage of police stations. While further improvements are required, such as ensuring libraries and meeting rooms are available to improve customer service, infrastructure is no longer the leading obstacle in access to justice.

On the other hand, due to continuously growing prison population overcrowding in prisons has worsened year on year. While some new prisons are being built and a total of 17 new prisons are being planned, it is unlikely that the new infrastructure will be sufficient to keep pace with growing incarceration rates and meet international minimum standards. Due to insufficient budget provisions, rehabilitation of prisoners is likely to remain limited and poorly accessible even in the newly developed prisons as well.

**COORDINATION**

Given the breadth and complexity of justice reform and the large number of implicated agencies and actors, effective coordination across the security and justice sector is required to ensure complementarity of efforts to tackle the vast array of obstacles to access to justice. While numerous initiatives to improve sector coordination have been introduced in the sector in recent years, there remain important shortcomings in the coordination mechanisms at both strategic and operational levels. The emphasis on improving coordination has been to develop structures to facilitate regular dialogue and exchange between the actors. The shortcoming of this approach has been an absence of emphasis on identifying the incentives to encourage coordination or address the institutional barriers to coordination which are often related to capacity, politics, and lack of systems.

**POLICY COORDINATION**

There are few, if any, joint cross sector policies related to the justice system. The risk of operating in the absence of a common policy framework is a lack of coherence between the various reforms across the institutions. As an example, while the draft new criminal procedure code anticipates the creation of new diversion mechanisms, probation systems, and rehabilitative elements, without a clear cross-sector policy on sentencing it may prove difficult to actually ensure that sentences passed down by judges or pushed for by prosecutors effectively utilize the new provisions in a consistent manner. This includes incoherence between the ambitions of the Home Affairs Ministry to build more jail facilities to accommodate increased number of incarcerated persons while in practice the judiciary and prosecutors aim to promote greater use of diversion mechanisms which should have the opposite effect on the overall number of prisoners. Most importantly, a common policy that would define clear aims and goals in reform can provide a powerful incentive to promote greater coordination in planning and implementation of reforms across the institutions. Currently, many of
the cross sector coordination structures and initiatives lack a common project and their identified purpose is simply to promote coordination without defining what the coordination should contribute towards.

**STRATEGY COORDINATION**

Equally, there is currently no common strategy for reform of the sector, rather institutions pursue reforms and planning in silo and rely on reactive corrective measures during implementation to resolve any disconnect in reform ambitions. One of the negative effects of an institution, rather than a sector wide approach to reform, is the imbalance in capacity and effectiveness between the institutions that this creates. While the police and judiciary have received relatively greater support from Government to initiate reforms, much of the cumulative potential impacts of their improved effectiveness are undermined by the comparatively more restricted capacity of the prosecution, prisons or public defenders/legal aid. As an example, the lack of absorption capacity of the prosecution often influences the extent to which the police refer cases to mediation rather than the prosecution. On the contrary, in instances where specific capacities were balanced across the sector, which is partly the case for human trafficking, specific reforms have led to positive results in access to justice for users and an overall increase in the number of successful cases addressing human trafficking.

While a cross sector reform strategy could potentially help ensure improved coordination and coherence of reforms at strategic level, in the current context it is unlikely that such an endeavour is feasible. Prior to such an ambitious strategy, potential interim or pre-requisite steps should include defining a lead institution for coordination, joint analysis on the existing clusters of challenges in coordination, joint assessment of justice sector needs to create a baseline, identification of common reform priorities, common indicators for performance against which progress could be measured, and more inclusive processes to develop institution specific strategies.

**STRUCTURES**

In the Nepal context there is no single institution that is naturally disposed to lead on coordination. In practice institutions resist attempts by others to coordinate as a means of protecting their independence. As a response, each institution has created its own coordination mechanisms to suit its needs and there are a multitude of competing and overlapping justice and security sector coordination mechanisms. In particular, at national and regional level the Attorney General office and the Judiciary have two competing and overlapping justice sector coordination meetings that have very similar membership and often agenda. In addition, a number of theme specific coordination structures, such as the Juvenile Justice Sector Coordination Committee, have been set up to deal with specific issues.

The Justice Sector Coordination Committee (JSCC), chaired by a Supreme Court Judge, is seen as the instrument to address concerns of the judiciary in case management while the OAG coordination process is seen to help coordinate investigations. In practice both deal with a range of issues that often overlap. While the number of competing coordination processes helps to promote more regular interactions between institutions, some stakeholders have noted that it has led to piecemeal
solutions to complex problems and has placed significant demands on time and resources of managers without necessarily leading to more collaborative approaches in practice.

The coordination system is further complicated by additional security or justice coordination efforts organized by CDO at District level and Village Development Committees also engaging in similar coordination, though such coordination is mostly at the discretion of those mechanisms and varies across various regions. Some stakeholders have noted that a CDO can be involved in up to 60 different coordination mechanisms many of which deal with justice or security. These coordination mechanisms can be complemented by additional thematic oriented coordination mechanisms, including local level mechanisms for juvenile justice or human trafficking.

The common shortcoming of the various coordination structures is that they are reactive to challenges and lack a clear agenda for coordination. They have rarely been empowered nor had the capacity to steer strategic level reforms, the area where coordination is currently lacking the most. In most circumstances, the central coordination mechanisms at national level have lacked the capacity to collect and analyze information from grassroots level to feed into national policy or strategy development. District level coordination mechanisms, including the JSCC, have complained that while they produce reports they rarely receive any feedback from their reports. In instances where common reform projects have been identified, the coordination structures have lacked the tools or mechanisms to collectively implement them. This includes lack of mechanisms for co-financing, restriction on pooling of resources, or common budgeting has been a critical limiting factor in promoting integrated efforts.

**POLICE-PROSECUTION COORDINATION**

Coordination between police and prosecutors has been noted as the most contentious and in dire need of reform. While frequent and regular meetings occur between prosecutors and the police at all levels, the key remaining barriers include asymmetry in capacity, unclear mandates, and politicization of both institutions. In particular one of the challenges is the limited or inconsistent quality of investigations produced by police but also irregular communication between the two sides on progress in investigation or prosecution. Regularly the police overstep their mandate, whereby they provide "pen dry" charge sheets to the prosecutor, a power solely entrusted to the prosecutor. In this regard, there are currently neither guidelines for how prosecutors and police should work together nor an outline of the procedures that should be followed in handling of investigations between the two actors. This includes clarity on how police should respond to instances when prosecutors revert back to the police to provide further evidence.

**STATE & NON-STATE**

While the judicial institutions widely recognize the importance of mediation mechanisms at ensuring basic level of access to justice, there is little functional integration between the formal and informal systems. The frequency and scope of interaction between the two systems largely depends on the initiative of individuals or the work of development partners/CSO to help develop facilitation groups\(^2\), and thus the quality of interaction remains significantly varied across Nepal. As an example,

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\(^2\) [http://www.international-alert.org/projects/24](http://www.international-alert.org/projects/24)
in some instances where Community Mediation Centers have been developed they have effectively competed with police and court led mediation while in others they have helped to facilitate referrals from one institution to the other. Nonetheless, frequency of meetings has shown to help provide timely insight into the type of cases handled by mediation and to understand where there may be gaps in coverage between the various parallel systems.

It is notable that many of the formal coordination structures, including the JSCC, inconsistently or rarely include members of civil society or mediation centers in coordination meetings. The notable exception is often limited to the representative of the local Bar Association. Various stakeholders noted that there is typically little overall awareness of the existence of the JSCC and other coordination mechanisms amongst local communities.

The Central Legal Aid Committee (CLAC) under the Ministry of Justice is tasked with coordination and policy direction for legal aid at large. Its capacities to perform a coordination function remain limited and very little data is available on overall case load handled through legal aid mechanisms. Importantly, at community level coordination and referral of victims and defendants to legal aid is contingent on personal or institutional relations of the state institutions with various legal aid providers rather than as a result of systematic coordination. There is no central database of available legal aid services being provided in individual communities that could otherwise help to coordinate assistance. Rather, many NGO legal aid providers are registered with the CDO and do not systematically inform the CLAC of their services.

DONOR COORDINATION
Lack of effective coordination between the security and justice institutions is further compounded lack of donor coordination. There are roughly 11 donors providing direct financial or technical support to the sector, yet no dedicated donor forum for coordinating support. Currently, some of the justice related work is being coordinated through an informal donor forum on human rights, though some donors noted that this forum does not deal with substantive issues related to justice or security sector reform on a regular basis nor are all donors active in the forum. Informal coordination on thematic issues, including mediation support, also takes place on an irregular basis.

Where there is overlap, e.g. on some human rights issues, donors might hear about security and justice initiatives at other donor coordination body meetings, however various interviews confirmed that overall there is limited knowledge amongst donors regarding the planned or ongoing donor security and justice programming. In many instances donor programmes compete rather than aim to develop synergies or complementarity between programmes. As an example, the lack of donor coordination has contributed to overlaps in services (e.g. legal aid) or competing approaches to improving coordination at national level (e.g. numerous coordination bodies set up by donor programmes).

LOOKING AHEAD
One of the most significant provisions of the new Constitution is the federalization of the security and justice sector. With the exception of the Judiciary, which has remained a unitary structure, the expectation is that the justice and security architecture will follow a federal model with a three tier
structure (central, provincial and local). While much of the run up to the adoption of the constitution has focused on the benefits and importance of federalization there remains little clarity on what the federal structure of justice and security will actually look like nor how it will be implemented. There remain significant risks and opportunities associated with this reform which is expected to fundamentally change the architecture of the sector. While the exact financial and resources implications of the reforms are not yet costed, it is likely that resources required will be substantial and it is highly uncertain if such resources will be made available.

Currently the CDO plays a critical justice and security function at District level. While the District level is not foreseen in the new Constitution, the Ministry of Home affairs and other executive agencies are anticipating that the function and role of the CDO will be retained, albeit with curtailed judicial functions. However, looking at the proposed Local Governance Act, 2017 the judicial power of the local level Judicial Committees seem extremely narrow and limited in scope while the provisions of the Act ensure that judicial power of the CDOs remain unchanged. It is expected that the CDO will ultimately have reporting lines to both provincial Governments but also the Ministry of Home Affairs. The retention of the CDO could potentially, however, duplicate mandates given to provincial or local Governments and act as an indirect control and oversight mechanism over local Government bodies.

While the police have begun preliminary work on defining the future structure and functions of the federal police, all options under consideration envision a single police force under the chain of command of the IGP. The concern is that the eventual policing model will retain the current structure and simply expand to include municipal police force as an extra layer of policing. Such municipal police would report directly to the existing District commands. In this regard, there is a potential that such a limited approach to changing the policing structure may not satisfy the expectations of local communities to gain greater control over their policing services. Nonetheless, significant investment in infrastructure and recruitment will be needed to create permanent police stations in all 553 local levels.

The most significant resource implications and potential impact on citizens will be the anticipated establishment of judicial committees at the local Government level. While the jurisdictional boundaries and mandates of these bodies is yet to be established through law, most stakeholders believe that jurisdiction will remain largely restricted to civil law and gradually include minor criminal offences under their jurisdiction through legal amendments. In this regard, there is potential that there may be overlap in mandates between the Judicial Committees and other existing quasi-judicial bodies as well as existing mediation mechanisms. If managed well and jurisdictional issues ironed out, this could lead to improved access to justice at local level. For example, if Judicial Committees were trained in mediation and empowered to adjudicate civil labour grievances, this could positively extend the reach of the existing only 10 labour offices across Nepal and vastly improve victims’ access to justice. Such committees, made up of elected officials from local Government elections, are likely to be staffed by non-legal practitioners yet given influential and important judicial functions. There are currently no concrete plans that define who will provide training or under which procedures the judicial committees will apply.
This section explores the effectiveness of internal and external accountability and oversight systems across the security and justice sector. This section aims to analyse the strengths and weaknesses of the overall accountability system for the security and justice sector and to review the extent to which they can address the various abuses committed by security and justice institutions outlined in Section 1.

An effective system of accountability is usually multidimensional. A combination of internal, non-state and state level accountability mechanisms is typically required to overcome the weaknesses of any one of the models. While state level accountability mechanisms are usually legitimate, they may be susceptible to political influence and lack institutional capacity. On the other hand, non-state organized external models of accountability, usually including civil society and media, are cost efficient and accessible to the general public but lack political clout. Internal accountability mechanisms are the most powerful and efficient means of holding personnel to account but are highly susceptible to politics and lack public trust.

As highlighted in virtually all assessments related to access to security or justice sector reform in Nepal, the lack of accountability for performance and conduct of justice and security sector institutions and their personnel remains amongst the primary impediments to achieving impactful results in improving access to justice. The state level systems of accountability remain poor leading to a general sense of lack of effective monitoring over the justice system.73 The lack of effective internal accountability mechanisms has led to an environment of impunity as regards corruption, the presence of which has in turn undermined gains that could have been achieved as a result of capacity building, infrastructure development or increased growth in resources. While there have been a number of high profile prosecutions of large scale corruption related to security and justice institutions and their leadership, the endemic level of corruption and the relatively low number of such cases means that a significant number of cases go undetected. In particular, across the various accountability systems there is insufficient capacity to detect and investigate cases of petty corruption, which has most impact on access to justice for vulnerable and marginalized groups.

With the exception of investing in the CIAA, strengthening accountability mechanisms remains an area where political will to introduce substantive reform is lacking across all institutions. While references are made to strengthening accountability in strategic plans, in practice few notable reforms have been introduced in the past few years.

 INTERNAL ACCOUNTABILITY MECHANISMS

PUBLIC COMPLAINTS MECHANISMS
The Judiciary and Police have established a system of phone numbers and online platforms that can be used for gathering complaints from users related to the performance or conduct of judges and police. Awareness of such mechanisms by the general public remains low and little effort is made to

promote the mechanisms at community or District levels. Access to the complaints mechanisms is especially difficult for low income groups or those living in remote areas who may otherwise not have access to the internet or be aware of the dedicated phone numbers to file complaints.

POLICE
The police complaints mechanism is often criticized for lacking transparency and for not having clearly defined procedures or systems for dealing with complaints once made. In many instances users do not receive feedback on the status of their complaint, including whether or not it has been registered. The procedure for dealing with complaints in the police appears at times to be ad hoc, without clear investigation and assessment procedures to ascertain whether complaints are genuine and how to address them. While a central police complaints unit has been established, its authority is interfered with and senior leadership tend to decide whether to proceed with investigation of individual cases of misconduct. The current process of filing complaints directly with the police has been noted to lack effective protection and confidentiality for those filing complaints. As a result, there have been reported cases of police intimidating or even abusing those that have filed the complaint to ensure that such complaints are withdrawn.

Of note, when community forums have been established as part of community policing strategies they have enabled communities to discuss their complaints directly with the police who have shown both willingness to investigate complaints and even action against police when corruption concerns were raised. These forums have an untapped potential to serve as important accountability mechanisms at the community level.

JUDICIARY
The Judicial Council is mandated to oversee the conduct of judges. Despite informal surveys of court users affirming wide spread corruption across the judiciary, in 2017 the Judicial Council had an active backlog of only 25 cases under investigation related to misconduct of judges. According to various stakeholders petty corruption complaints against judges are frequently dismissed when initially screened by the Judicial Council due to limited evidence presented by the user when submitting the complaint. Yet, there is no guidance or support provided to users in the process of completing such complaints. Equally in the District court there is no established process to facilitate the filling of such complaints. At times the Judicial Council responds to suspected cases of misconduct or corruption that appear in the media or based on guidance from the leadership of the Supreme Court but examples of such pro-activeness are scarce. The Judicial Council remains constrained by its limited capacity which also limits the extent to which it can effectively enlarge its active case backlog or conclude investigations quickly. The Supreme Court Registrar and Chief Justice are responsible for overseeing and disciplining court staff. Similar mechanisms exist also at the Appeal Court and District Court level. Due to lack of public information related to the number of cases involving conduct of court staff, and little clarity regarding the official systems or processes for investigation of complaints, it is difficult to gauge the extent to which this system is effective.

In addition, codes of conduct and standards for service delivery of court staff are lacking and few concrete guidelines exist against which their performance could be measured or held to account.
practice there is limited knowledge by legal practitioners of the specific elements and measures in
the codes of conduct, and enforcement of the provisions remains rare.

**PRISONS, LAWYERS, PROSECUTION**
Importantly, there is currently no standardized clear public complaints mechanism for the prisons,
lawyers or prosecution. While the Nepal Bar Association has received a small number of complaints,
investigations and disciplinary action against lawyers remains rare and the procedures to do so are
not clearly defined. In the case of prosecution, the OAG has few available tools to discipline
prosecutors for misconduct or poor performance. In certain cases where the OAG has dismissed staff
for suspected corruption and failure to effectively perform, such decisions were overturned by the
Supreme Court citing poor evidence and lack of conformity with civil service dismissal procedures.
While there are codes of conduct established pertaining to all legal practitioners, judges and police,
there are long standing calls to review and update the various documents as well as establish a
system of monitoring adherence. It is notable that no codes of conduct for prison staff were
identified by the review team.

**QUASI-JUDICIAL BODIES**
The CDO and other quasi-judicial bodies remain influential justice institutions but outside of appeals
on procedural grounds to first instance courts, and periodic audits of cases by the Supreme Court,
there are no clear complaints or oversight mechanisms related to the conduct of CDO. While the
Ministry of Home Affairs remains the responsible line Ministry for appointments and dismissals of
CDO, it remains unclear if there is any dedicated mechanism for receiving or handling complaints
from the public related to the judicial functions of the CDO. The CDO has no formal reporting
requirements related to its judicial function.

Due to time constraints, the review team only examined the quasi-judicial mechanisms that exist to
address labour grievances run by the Labour Department and the Foreign Employment Department.
Some interlocutors noted gaps in oversight of the process related to the Foreign Employment
Department granting migrant recruitment licenses. Interlocutors informed us that the same officials
could grant licenses and later sit to mediate disputes relating to the misuse of those licenses. The
review team was also told that the ‘business of foreign recruitment’ was at times controlled by
politically influential persons, almost ‘syndicates’, where corruption was rife, and accountability and
integrity minimal. Several interlocutors noted that victims are also encouraged to use these quasi-
judicial mechanisms over the criminal justice system when their allegations might amount to
slavery/human trafficking/forced labour (a criminal justice issue) on the promise that at least they
might receive some financial compensation, while in the criminal justice system they could wait for
years and then still not receive justice. This seems to show perpetrators of crime avoiding criminal
liability by steering cases to a quasi-judicial body they can better control. It also strengthens an
environment of impunity related to labour grievances.

**SUPERVISION**
Little direct supervision or monitoring from senior management takes place in any of the three
institutions. A positive step in recent years by the Judiciary has been the introduction of a system of
case file inspection which has improved the transparency of how and when cases are handled by each court. Its potential to provide important information to management regarding the performance of staff is largely limited case backlog auditing and it provides little information on quality of the operations of the court. There is currently no system in place to monitor the extent to which recommendations and findings from case file inspections are addressed through follow up.

The OAG currently lacks sufficient capacity at senior management levels to proactively monitor the work of attorneys at District level. Four secretaries within the OAG office are tasked with reviewing reports from the various regions on a part time basis. Most communication between central level and attorneys is done through email or phone calls, with few resources and systems available for direct inspection or oversight of the work of attorneys. Some stakeholders have raised concern that with a growing case load and increased discretionary powers of attorneys, the lack of evolution of management and accountability systems in the prosecution service, there is a risk that incidence of corruption and degradation of standards could significantly worsen over time.

EXTERNAL – STATE ACCOUNTABILITY MECHANISMS

PEER TO PEER

In Nepal there is limited mutual accountability between legal practitioners. It is rare to find instances where members of the legal profession report misconduct of their counterparts or peers to the authorities. Given the lack of confidentiality in reporting such cases, they fear reprisals from their peers if they do report such cases. As an example, while there remains a high incidence of reported cases of torture in police detention facilities during the process of documenting confessions, according to one study by Advocacy Forum in 34 percent of cases judges did not ask the accused if the confession was given on their own volition.74

While visits of prosecutors and judges to inspect prison conditions remain limited, often in annual intervals, prison staff have admitted that when such visits do take place they significantly influence internal reforms of procedures or systems of dealing with inmates. As an example, the Supreme Court instructed the Government to increase food rations for prisoners following one such visit or improved hygiene in some of the prisons. It is notable that there are currently no guidelines or policies for how often prison inspection should take place or how they should be conducted.

SPECIAL COURT

The Special Court has been established within the Judiciary to deal with cases of corruption related to the public sector. In practice it mainly deals with cases brought forth by the CIAA. There are very few and infrequent cases on the docket relating to the police or prosecutors. There are no known cases of corruption in the Special Court brought against prison officials.

PARLIAMENT

The Parliament retains considerable powers of impeachment and is the only external institution outside of the Judiciary that has the power and mandate to hold judges to account. Overall, in the absence of a dedicated committee for rule of law or justice, a large number of committees deal with oversight of the justice sector. The lack of clarity on jurisdiction of committees has at times led to various committees providing contrary directives or insights into the work of the justice sector. Due to limited capacity, resources and overwhelming pre-occupation with dealing with implementation of new Constitution and Federalism, neither of the Chambers in Parliament currently prioritizes or conducts regular monitoring visits to justice institutions or periodic hearings related to the sector. If such hearing occur they typically deal with high profile operational issues cited in the media and rarely include review of strategic planning or reforms. Currently the limited number of Parliamentarians with a legal or security background means that the ability of committees to engage in substantive debates on reforms or content of laws related to the justice system is limited. In this regard, Parliament often turns to NGOs, including the Nepal Law Society, for guidance or input on technical or reform related issues.

There remain considerable concerns related to the willingness and ability of Parliament to hold security and justice institutions to account. Even in cases where Parliament was made aware of the Executive failing to uphold or enforce Supreme Court judgements, it has often failed to act or follow up. On the other hand, the most notable case of political interference was the impeachment proceedings of the Chief Justice brought forth by Parliament. The impeachment proceedings followed shortly after the Supreme Court rules on cases to overturn the Government appointment of the Inspector General of the Police and in a separate case related to the corruption of three police officers. The motion in Parliament was widely protested and condemned by civil society and members of the Judiciary as being an example of the Legislature attempting to overturn a judicial decision and thereby infringing on the Constitutional separation of powers.

COMMISSION ON INVESTIGATION ON ABUSE OF AUTHORITY (CIAA)

The power of the CIAA has been limited to addressing abuses of authority by public officers engaged in corruption. Under the 1990 Constitution the CIAA was authorized to exercise authority over corruption charges as well as misconduct by the public officers. Their authority over misconduct was removed by the 2015 Constitution. While the majority of cases dealt with by the CIAA involve the education sector, over the years the CIAA has successfully prosecuted cases involving police from all ranks, including the IGP. According to many stakeholders the CIAA remains the most effective institution to hold the police to account. Nonetheless, the limited number of police cases prosecuted by the CIAA would seem to indicate it is not a CIAA priority. Equally the CIAA has been accused of failing to act on a large number of reported cases of both police and prosecutor corruption, abuse of power due to political pressure, restricted capacity, and ironically of corruption within the CIAA itself.

NATIONAL HUMAN RIGHTS COMMISSION (NHRC)

The National Human Rights Commission has remained active in raising awareness of human rights abuses inflicted by security and justice institutions both national and internationally (e.g. UN Human Rights Committee). While it is widely recognized as being an important institution to collect, analyse
and investigate complaints from citizens through its 5 regional and 4 sub-regional offices, it lacks political clout and empowerment to effectively hold the Government to account. Currently, despite a clear judgement from the Supreme Court that mandates the Government to respond to or directly implement all recommendations of the NHRC, of the 735 cases the NRHC has published the Government has fully complied with only 14 percent of recommendations, and partially with only 48 percent. In 38 percent of NRHC recommendations the Government has taken no action at all. Even in cases where the NHRC has directly asked for clarification on implementation from the Government, no response has been received. The NHRC itself has significant capacity and budgetary constraints that impede its work. It currently has a high reliance on donor funding and 232 of 309 positions within the institution remain vacant.

**EXTERNAL – NON-STATE ACCOUNTABILITY MECHANISMS**

**LAWYERS**

In Nepal, lawyers have a potentially powerful role to play in holding judicial bodies to account or in preventing abuse of their clients. Lawyers have on occasion through writ petitions or public interest litigation significantly altered the behaviour of police, court, prosecutor or heads of quasi-judicial bodies. This includes forcing courts to apply continuous hearing for cases of human trafficking, removing cases of juvenile justice from the jurisdiction of CDO, and ensuring police adherence to maximum detention deadlines. Notably, through court cases and writ petitions lawyers have challenged the integrity of appointment processes in the judiciary (e.g. new appointments of District Courts) or even the process of appointing IGP.

The challenge, however, is that a large proportion of lawyers are politically affiliated which prevents them from engaging in politically charged cases related to accountability of state institutions. Furthermore, lawyers, including the NBA, have noted that they have limited financial resources to take on lengthy or complex public interest litigation.

**CIVIL SOCIETY AND MEDIA**

Relative to other sectors, the number of well capacitated civil society organizations active in security and justice is limited. Nonetheless, there is a wealth of capacity and expertise across many of the existing civil society organisations to support justice sector reform. One of the challenges faced by CSO has been accessing increasingly scarce funding from donor, private and public funds available for justice sector reform and service delivery.

Much of the existing civil society and NGO programming in the sector focuses on provision of services (e.g. legal aid) or advocacy for socio-economic rights. A comparatively small percentage of NGO resources are dedicated to making the security and justice sector more accountable. Nonetheless when active, civil society has shown it can be an important and influential actor to hold the state security and justice institutions to account. This includes advocacy efforts to pressure Parliament not to impeach a Chief Justice or preventing torture through prison visits. No regular or robust civil society monitoring of courts was identified in the review. Equally, formal or informal monitoring of

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75 Data collected from interview with NHRC
prisons conducted by civil society was acknowledged as irregular and limited in scope due to restricted access. Advocacy Forum, which remains one of the most active CSO engaged in monitoring of detention and prison facilities, in 2016 reported that in a large number of cases they were prevented by the Police from conducting monitoring visits of police detention facilities by the police. In many of such cases the refusal to allow such monitoring is not formally written down by the police, complicating the processes for appealing such decisions.\textsuperscript{76}

An additional caveat on the effectiveness of the NGOs as an accountability mechanism is that they tend to be aligned to different political parties and/or ethnic groups and this can distort how they report on rights abuses perpetrated by the groups to which they are aligned. In particular, there are questions regarding the source of funding and political affiliation for some of the NGO.\textsuperscript{77}

Some media outlets have played an important role in reporting on cases of corruption and abuse of judicial bodies. While a large number of media are not trusted due to their political affiliation, media reports have been known to promote action by both Parliament but also the security and justice institutions when critical articles are published exposing abuses. Some stakeholders, however, consider the capacity of the media to engage in investigative journalism or to provide more analytical reporting on the challenges is limited.\textsuperscript{78} It was beyond the scope of the review team to access the impact social media has in encouraging accountability and this would be useful to examine.

**SECTION IV: CONCLUSIONS AND RECOMMENDATIONS**

The following section provides a summary of the key analysis and conclusions from the findings outlined in Section I, II & III of the report. The conclusions provide an overview of recommended areas of reform and development partner engagement in the short to medium term. There is an acknowledgment that most of the challenges that have been described in various justice sector assessment commissioned by donors since 2007 remain relevant today.

The predominant focus of the reform process on improving infrastructure and capacity, both in terms of increased staff and training, have until now only had marginal impacts on the level of access to justice for vulnerable groups. As an example, key and re-current recommendations from various reports and evaluations highlighted the need to improve accountability and addressing impunity.\textsuperscript{79} These are areas that have remained largely neglected or unaddressed. Nonetheless, small and incremental changes are evident across the sector that affirm overall justice sector reform is moving in the right direction. This includes improved case dispensation, dedicated systems and structures for dealing with cases involving children and women, and growth of legal aid services. Yet, significant risks related to political interference, elite capture of resources, and lack of integrity remain. The prospect of non-engagement by donors in the sector going forward risks that many of the hard fought reforms across the sector could still be reversed. Whatever programmatic support is provided, donors should seek to continue to work both at central level and local level. Many of the underlying

\textsuperscript{76} http://advocacyforum.org/publications/Advocatingagainsttorturein2016.pdf
\textsuperscript{77} http://www.international-alert.org/sites/default/files/PeaceAudit_Nepal_EN_2015.pdf
\textsuperscript{78} http://www.international-alert.org/sites/default/files/PeaceAudit_Nepal_EN_2015.pdf
challenges in sector are political in nature and therefore political dialogue and engagement must be a central element of the efforts of the donor community.

The overall strategic level recommendations from the findings can be structured around 7 areas with an additional cross-cutting gender specific recommendation (7+1):

- Raise the profile and resource commitment to justice sector reform
- Prioritize access to justice for marginalized and vulnerable groups
- Prioritize accountability as a central element of the reform efforts
- Ensure prison reform is mainstreamed in justice sector reform efforts
- Promote independence and impartiality of the judicial bodies, including the Judiciary – engage in political dialogue to help address political impediments to reform
- Mainstream justice reform and rule of law across the development agenda, addressing emerging needs and issues related to civil law
- Re-engage in transitional justice and continue to specifically tackle conflict drivers

\(\text{Plus + 1: Promote more gender responsive and inclusive security and justice institutions}\)

While each of the areas of work are important on their own, working across all the areas is recommended. Single donors are unlikely to have the capacity to do so, which strengthens the need for donor coordination to ensure coherent coverage.

**RAISE THE PROFILE AND RESOURCE COMMITMENT TO JUSTICE SECTOR REFORM**

The security and justice needs remain substantial across Nepal and affect a large number of Nepali. It is clear that more needs to be done to make the justice system more accountable, responsive, accessible and efficient. Improving the effectiveness and quality of the justice system will be a determining factor in the extent to which intent and spirit of the newly adopted Constitution will be implemented. Yet, it is striking that compared to even a few years ago the security and justice sector reform agenda has all but disappeared from the national spotlight and is no longer identified amongst the top reform priority issue areas for the Government nor for donors in Nepal.

De-prioritisation of the justice sector can be shown through the following examples. The Government has classified justice as a non-productive sector – one that does not have a tangible contribution to economic growth or positive return on investment – and has limited its financial investment in this area of reform to roughly 3.95 percent of its overall recurrent national budget. When the Government reports on implementation of the Sustainable Development Goals has chosen limited number of indicators for reporting related to justice and security.\(^{80}\) The national budget outlined by the Ministry of Finance in 2015, 2016 and 2017 omitted justice as a priority area of reform and Government investment, though several mentions are made to professionalization and capacity building of the police in the 2017 budget. Equally, there is scant reference to justice in the Government’s 14th economic development plan of the Government for the years 2017-2020.\(^{81}\)

With a highly ambitious reform agenda across the sector, the roll out of new justice and security structures, and a history of budget shortfalls and underspend in the sector, there are concerns related to the affordability of reforms in the medium to long-term. Considering the vast resource requirements for effective implementation, it is likely that even with substantial gains in efficiency the justice sector, the Judiciary, Prisons and Office of Attorney General will not be able to implement the wide spectrum of initiated or planned reforms in the sector. Nonetheless, there is a requirement to re-examine issues of affordability, fiscal sustainability, and broader public finance management capacities in the sector. In particular, no examples of reforms related to revenue collection (eg. court fees or fine collection by police) was identified nor any examples of reforms of budget planning and management systems.

Embarking on an ambitious reform process, while under-funding implementation creates substantial challenges that should be highlighted as a significant risk. This includes the risk that Constitutionally mandated services will be rolled out but will lack sufficient quality to address needs. In some circumstance rolling out new structures and recruiting staff without strengthening institutions and accountability mechanisms can risk that corruption will increase and abuses will be expanded. In this regard, while monitoring and evaluation budget lines saw marginal increases across the board for the judiciary and OAG, and Council of Justice actually saw a marginal decrease in overall budget from 2015/16 to 2016/17.

First and foremost, effort is required to ensure that the profile of the justice reform agenda is raised across all levels of Government, including in newly elected local Governments, and even within the donor community. The priority should be advocacy for a greater commitment to support justice sector reform. The overall aim should thereafter be for the Government to mainstream the security and justice reform agenda in its development priorities and ensure adequate budget is provided while in parallel working to ensure that such budget is used on state priorities for reform.

Considering the significance and size of the reforms that are underway or planned, there is both a unique opportunity but also an urgent need to convene a substantive and inclusive dialogue on the future justice reform process. Across all levels there is uncertainty as to what the future reforms will entail or what the ultimate aims of the overall reforms are. Worryingly, there is no plan or budget in place to roll out the reforms. Nonetheless, the decisions that will be made on the laws, structures, and mandates of institutions will have long-standing repercussions on access to justice. At present such reforms are being conceptualized in the absence of any notable consultative or transparent processes. To maximize impact and reduce the associated risks of such reform, wide ranging consensus and ownership of the reform process are needed. This can help to ensure that such reforms reflect the diversity of needs but also there is eventual coherence of efforts across the sector.

**Recommendations**

1. **To help raise the profile of justice sector reform on the Government reform agenda and to better understand the affordability of planned reforms, and analyse cost-efficiency, donors should help to support and initiate a security and justice sector expenditure review.**
review should provide analysis of existing spending in the sector, overview of costing of planned/ongoing reforms, analysis of financial affordability and sustainability, and identify potential funding/expenditure gaps in the sector. Such a review could help the Government and its partners to better understand the expenditure needs and funding gaps that may emerge in the short to medium term in the sector. This should be accompanied by detailed fiscal impact studies and costings of the proposed reforms, including implementation and roll out of the new laws (e.g. penal code, criminal and civil code), capacity building of judicial committees, and federalization of the police.

2 Considering the significant need and importance that newly established judicial committees will have, civil society and donors should consider providing comprehensive support to these institutions. Support should include establishing clear procedures, capacity building, sensitization on gender and vulnerability, and developing grassroots legal outreach programmes. In parallel, a system of external monitoring and complaints handling dedicated to the work of judicial committees should be developed to ensure effective oversight and accountability.

3 Considering the significance of the new proposed reforms and laws the donor community should as a matter of urgency help to support and facilitate wide ranging stakeholder consultations on the laws and reforms. A public debate is needed to define what reforms and institutions are needed.

In parallel, given the unprecedented reforms being planned in the sector and lack of a clear sector wide vision, a high level platform, such as a justice sector actors conference/criminal justice conference, should be organized to provide a forum and opportunity for the lead institutions – MoLJ, police, prosecutors, NBA, judges, prison administrator – to discuss the impacts and needs associated with federalization roll out new laws, including the criminal and civil codes. While a number of conferences have been organized in Nepal, few have aimed to have equal representation from across the sector and discuss high level policy issues. Rather, such a conference needs to have sufficiently high profile and aim to discuss strategic level issues rather than technical aspects of reform – leading to concrete recommendations for joint commitments or actions. The recommendations from the conference, which should be co-organized between the institutions, should serve as a basis for a common policy, including issues such as sentencing/access to justice. The findings or conclusions of the conference can serve as a starting point for developing a joint monitoring framework based on a select number of indicators agreed during the conference. The regularity (eg. every three years) of convening such a platform can help to promote coordination at policy and planning levels in the sector. Attempts should be made to utilize the conference preparatory meetings at technical level to have representatives across the institutions model a sector wide theory of change that will describe the overall aims of the reform and work backwards to show how the institutions understand the objectives will be achieved through the reform process.
PRIORITY ACCESS TO JUSTICE FOR MARGINALIZED AND VULNERABLE GROUPS

The justice needs and obstacles faced in access to justice are not uniform across Nepal. The quality of access to justice is highly variable and depends on location, caste, socio-economic status, and gender. It is clear that marginalized and vulnerable groups are disproportionately impacted by limitations in the justice reform process but also the most in need of accessing justice. In this regard, addressing the needs of vulnerable groups in the justice reform process should remain a priority for Government, Judiciary, civil society and donors moving forward. Yet, too often the solutions to access to justice are over simplified to either improving proximity of services or changes to the legal framework. To ensure impactful results a multi-pronged approach to addressing the needs of vulnerable groups in accessing justice is needed. This includes creating more inclusive institutions, investing in continuous community based legal awareness programmes, stimulating greater community advocacy for inclusiveness, improving the scope and quality of services, reducing financial barriers to access to justice, and addressing social barriers.

With a high number of persons living in poverty, large number of marginalized and vulnerable groups, and stark inequality across the country, it is difficult for the justice reform process with existing resources and capacity to fully address the diverse and unique needs of the vast number of grievance holders. Attempts to single out distinct vulnerable groups for enhanced services or support has at times improved the status and access to justice for such groups. Yet, rarely has such support had a multiplier or spill over effect where other marginalized or at risk vulnerable groups would benefit in tandem. The narrow focus of many programmes in addressing needs has caused many marginalized parts of society to receive little to no support. Rather, in a resource constrained environment (eg. limited available donor and national budget committed to the sector) effort should be made to ensure that prioritization is given to dealing with the security and justice needs of vulnerable groups more broadly.

Given limited resources and capacity within the justice system, access to justice resources should remain focused on the basic rights-based issues outlined in Section 1, rather than diverted to address emerging issues such as the commercial and banking sector’s needs, money laundering, cyber-crime, or even intellectual property issues. Instead existing programmes focused on those areas, or new monies made available, should where relevant integrate an access to justice approach. Comparatively, education, transportation, health and economic growth sectors are well financed when compared to the dwindling donor funds made available to justice reform. To mitigate the impact of donors focusing on only one or two areas, donor coordination and collaboration should be encouraged as well as consideration for including components in those sectoral programmes that would address grievances related to the sector (eg. demand for rights related to land).

Equal attention should be given to the demand and supply side of justice. Currently, more needs to be done to address the demand aspects of justice. Intensification and continuity of legal awareness campaigns that inform vulnerable and marginalized groups of their rights and systems available to access justice are needed. Past large scale efforts, notably related to GBV and human trafficking, have a positive track record at raising awareness. A multi layered approach to legal awareness which is delivered jointly by judicial bodies and civil society and applies a mix of face to face, media and group approaches to sensitization needs to be given consideration. Lastly, efforts should be made to
work with community leaders, civil society, and political representatives to engage in community level dialogue to sensitize communities on the harmful effects of domestic violence, gender based discrimination, and classed/caste based discrimination. This should be done in parallel to efforts to ensure economic empowerment of the most vulnerable and marginalized groups.

Recommendations

4 Greater resources and sustained effort should be targeted at community based legal empowerment. The aim of such work should be to raise awareness of peoples’ human rights, of the services available to them to access justice and how they can do that, and of mechanisms available to let them report abuses of authority or corruption across the justice sector. In parallel, more effort needs to be made through community dialogue, advocacy, and campaigning to address the societal norms that prevent vulnerable and marginalized communities from accessing justice even when they know what their rights are and how to access justice. These include caste based discrimination, gender inequality and the effects of patriarchal norms.

5 Assistance should be provided to the OAG and the Judiciary to create a comprehensive case prioritisation policy. The aim should be to ensure that GBV, human trafficking, juvenile justice and domestic violence are effectively given priority in attention, resources and case load. Additional support should be provided to the OAG to introduce a clear quality control checklist for prosecutors that ensures sufficient evidence is collected prior to charges being filed and all motions are clearly justified and well-reasoned; this can otherwise help to reduce the overall level of pre-trial detention in the country.

6 Continued support to the roll out and strengthening of mediation and legal aid systems should be prioritized. Legal Aid: Special attention should be given to ensuring that legal aid services are available to all vulnerable groups and extended across the full criminal justice process, including in detention and prisons. Special consideration should be given to helping to extend legal aid services to cover a select number of civil cases. A system of continuous mapping of legal aid providers at community and district level should be supported to uncover and track gaps in coverage and encourage coordination between providers. Mediation: Progress to date should be built upon and lessons learned relied upon to push into new areas where mediation is taking place, but without training. Quasi-judicial bodies engaging in mediation, like those addressing labour issues, should receive tailored mediation training and clear guidelines enforced (as happens in community mediation) to ensure criminal matters, like trafficking and forced labour, are referred to the criminal justice system.

PRIORITIZE ACCOUNTABILITY AS A CENTRAL ELEMENT OF THE REFORM EFFORTS

With continued growth in number of staff, new structures being developed, and gradual delegation of responsibilities and powers to staff and institutions at local level, there is a critical need to ensure existing accountability mechanisms are strengthened to cope with the growing size of the institutions and the gradual devolution of powers. Currently, many of the obstacles to justice, which include...
corruption, physical abuse and poor performance, are related to insufficient and overstrained systems of accountability and oversight. Ensuring an effective system of accountability is in place should remain amongst the most urgent Government, judiciary, donor and civil society priorities. Overall, without significant improvement in the systems of accountability in the sector further investment in infrastructure and capacity building is likely to yield little impact.

It is unlikely that there is political will nor the resources available to achieve transformational change regarding internal and state led accountability mechanisms in the given context. The limited donor funding in the sector provides little political leverage to apply substantial pressure on institutions to effectively reform these systems. Thus, effort should be focused on creating the necessary trust between donors and Government to progressively address some of the more sensitive and large scale reforms needed to enhance the effectiveness of internal accountability mechanisms in the medium term. Some of the areas where national institutions have expressed willingness to reform include improving execution of judgements, enhancing performance management systems and strengthening monitoring and evaluation frameworks. Namely the focus in strengthening monitoring and evaluation systems should move away from raw quantitative data to include information related to quality.

More evidently, there is a window of opportunity to further capacitate civil society as a more active and effective watchdog over the security and justice institutions. The external accountability function of civil society remains largely underutilized but could potentially yield important impact to influence behaviour change across the institutions. In this regard, grant funding to civil society should focus on service delivery, but also on the capacity of civil society to act as a watchdog over the security and justice sector. This includes supporting CSO to continue data collection, periodic research and perception surveys on the experiences of users in accessing the justice system as well as building the capacity of CSO to systematically monitor courts and prisons.

Efforts should be made to create a comprehensive baseline of current access to justice against which progress over time could be measured. Perception surveys, community dialogue, and direct observation, could provide a triangulated picture. Perception surveys alone should not be relied on as they often present a distorted picture if they are a one-off endeavour, or where the target group and questions continually change. The high number of variables across the various surveys makes it difficult to gauge the extent to which needs and obstacles are changing over time.

The de facto focus of the justice reform process has been to ensure that individuals have easier access to services by improving proximity and availability of such services or by ensuring timeliness of decision making. In contrast, far less attention has been given to ensuring the quality of such services or court judgements. Often the poor level of quality of the available services in communities has undermined the impact that an increase in access has had. In particular, greater monitoring and quality control of performance across the justice sector is needed. In particular, the quality of legal aid should be better assessed. Equally, to counter balance the emphasis on speed in case dispensation, attention should be given to ensure that the quality of judgements remains consistent.
Recommendations

7 Donors should promote and empower the role of civil society as a watchdog over the security and justice sector. Efforts should be made to promote and support public interest litigation and research concerning the services provided, abuses or behavior of security and judicial bodies.

8 Given the lack of systematic monitoring and limited data available related to performance and quality of court processes, it is suggested that donors support initiatives by civil society or other agencies to conduct regular and sustained court monitoring in a number of pilot regions. Such monitoring should explore the quality of judgements, consistency of processes and procedures, obstacles to access of court services (e.g. including corruption), quality of case management, and trial procedures. In parallel, consideration should be given to conducting systematic user surveys and “report cards” that would document the experience of court users. Such surveys should reflect both on the work of judges but also prosecutors and lawyers. Special attention, in parallel, should also be given to monitoring the work of the CDO and the newly established judicial committees.

9 Given the high incidence of torture and physical abuse that occurs in police detention and prisons, it is suggested to create a formal prison monitoring mechanism that has the power and authority to visit prisons regularly and unannounced. Such a mechanism should be staffed by both autonomous government agencies, including CIAA and NHRC, and include representatives of civil society. A parallel system of prison oversight organized by the OAG and Judiciary should continue and be strengthened.

10 The NBA and MoLJ should be supported to strengthen the monitoring and quality control mechanisms over legal aid. This includes improving accessibility and effectiveness of the complaints and investigation mechanisms within the NBA concerning lawyers and legal aid providers.

11 Support should be considered to further strengthen the inspection mechanism of the Judiciary. This includes strengthening the data collection, reporting and analytical capacities of inspection teams. The aim should be to widen the scope of data and analysis to ensure that such information is better used to inform policy/strategy development but also performance management systems in the judiciary. In particular, systems to review the quality of court judgements should be strengthened to ensure greater consistency. This same emphasis on quality control should be extended to mediation bodies and the quasi-judicial mechanisms, for example those dealing with labour disputes, so they become more accountable for the quality and consistency of the access to justice they provide.
ENSURE PRISON REFORM IS MAINSTREAMED IN JUSTICE SECTOR REFORM EFFORTS

While prisons are an integral part of the criminal justice chain, prison reform has been continuously underfunded, overlooked and neglected. Since 2007 the prison budget has only seen small increases year on year, with an exceptional increase of 40 percent in the projected budget in 2018. It is notable that since 2007 the prison population has doubled and overcrowding has become more acute. In parallel few donor programmes have engaged substantively in prison reform. As a result, the current infrastructure and capacity of the prison system is woefully below standards. With increased effectiveness of the other criminal justice institutions in expending cases, prison overcrowding is increasing. While attention is currently only given to infrastructure needs, there is a particular lack of awareness to the rehabilitation function and services provided by prisons. In the absence of any robust analysis, prior to engagement in prison reform a full scale institutional assessment of the prison system is required. This should then be followed by support to develop a basic outline of a strategy for reforming the prison system. To help reduce overcrowding and to shift sentencing policy towards alternate sanctions, special attention should be given to gradually capacitating or introducing systems of diversion, bail, probation, and/or parole.

Recommendations

12 As an entry point to raising the profile of, and advocating for, the need for urgent reform of the prison system, donors should support a comprehensive assessment of the prison system in Nepal. This should include an audit of infrastructure, health and safety issues, staffing, management systems, rehabilitation programmes, and internal accountability mechanisms. This should then be followed by support to developing a strategic plan for reform of the prison system.

PROMOTE INDEPENDENCE AND IMPARTIALITY OF THE JUDICIAL BODIES – ENGAGE IN POLITICAL DIALOGUE TO HELP ADDRESS POLITICAL IMPEDIMENTS TO REFORM

The overall footprint of donors in the justice sector is increasingly diminishing due to decreased funding but also improved capacity of judicial bodies to drive the reform process. Much of the required technical know how and skills required to support and sustain the reform process can be found amongst domestic actors, including in civil society. In fact, many of the notable reforms across the Judiciary and OAG have been led and driven without external support from donors. Rather, the unique added value of donors is their ability to engage in political dialogue with senior leaders of the executive and judiciary. Yet, too often donor engagement has been reduced to a series of technical level discussions without addressing the underlying political obstacles in the reform process. The international community, through a coordinated and joint approach, should use its “good offices” to engage in advocacy for more systematic change across the security and justice sector on these issues:

- Ensuring independence of the Judiciary, limiting political interference in operational issues and cases of the police, OAG, and courts
- Ensuring that in practice the police are decentralized (defusing the role of central command on provincial and local police) and the role of the CDO in local governance is clarified
- Limiting the frequency and scope of political appointments across the sector, including reforming and re-balancing the composition of the Judicial Council
- Ensuring greater ethnic and gender balance in senior management positions across the judicial bodies
- Promoting more inclusive and transparent processes to drafting of legislation
- Ensuring the executive respects the integrity and authority of the Judiciary by adhering to Court judgements, including those against state officials

Progress in any of these areas could signal a true political commitment to reform. Effective political commitment to addressing these issues should be a key benchmark for donors to stand ready to substantially increase their support to technical and structural reforms in the sector.

**Recommendations**

13 **To help raise the profile of justice and security sector reform and help overcome key political impediments to reform, it is suggested that donors engage in more frequent and substantive political dialogue with Government on justice and security sector reform.**

14 **It is recommended that a donor coordination forum specific to security and justice reform is set up to help coordinate efforts in the sector but also to amplify the collective voice of the donor community on justice reform matters. The aim should be to build synergies between the various programmes focusing on security and justice.**

**MAINSTREAM JUSTICE ACROSS THE DEVELOPMENT AGENDA, ADDRESSING EMERGING NEEDS AND ISSUES RELATED TO CIVIL LAW**

The most significant increase in case load in District courts is found in areas of civil law. Currently legal practitioners, including mediation centers, lack the requisite skills and expertise in emerging areas of civil law (see section 1). With the exception of support to draft the new civil law, it is notable that currently there is no substantial donor support or focus on this area of law.

With diminishing resources available for criminal justice reform there is, however, a risk that re-focusing on civil law could adversely affect the much needed criminal justice system reform. To mitigate against this risk, donors and Government are encouraged to better integrate justice reform across the overall development agenda, including the SDG framework. Funding which is committed to the comparatively better resourced areas of the development agenda, including energy and economic growth, should mainstream rule of law/access to justice components. This can ensure that safeguards are put in place to address the emergence of cases that stem from socio-economic development, including water, natural resource, tax, and land disputes.

While this and other assessments have focused on reviewing the work of the criminal justice system, beyond the CDO, and to a lesser extent the labour grievance quasi-judicial mechanisms, relatively little analysis is available on the quality and effectiveness of the other quasi-judicial bodies (eg. land reform officer, land revenue officer, district forest officer). This includes the extent to which they are effective as alternate dispute mechanisms and even the actual case load that they have. A dedicated
assessments examining the capacities, procedures, and effectiveness of these quasi-judicial mechanisms is therefore recommended.

**Recommendations**

15. **To better understand the work, effectiveness and efficiency of quasi-judicial bodies as alternate dispute resolution mechanisms, donors should support a comprehensive assessment of their work. This includes examining capacity, management, accountability and effectiveness of these institutions to ensure access to justice.**

16. **State actors, civil society and donors should examine the needs and opportunities for better supporting mechanisms, capacities and systems related to civil law cases. In particular support should be given to strengthening the capacities and knowledge of legal practitioners in emerging areas of civil law which include: commercial law, international trade, environmental, natural resources, tax, or intellectual property law. To ensure that the already diminished resources available for criminal justice reform are not further reduced, it is suggested that donors ensure that the rule of law/access to justice components are mainstreamed across the various development agenda portfolio (Eg. energy, infrastructure, trade) and each of the portfolio has earmarked funds to deal with emerging rule of law/access to justice issues related to that portfolio.**

17. **The periodic Government planning, reporting and monitoring of implementation of Sustainable Development Goals should include SDG Goal 16 and its associated targets and indicators for justice, the rule of law and security.**

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**RE-ENGAGE ON TRANSITIONAL JUSTICE AND SPECIFICALLY TACKLE CONFLICT DRIVERS**

While a majority of Nepali have looked to move on from the conflict, with over 53,000 cases registered in the TRC and a further 2800 cases under investigation it is clear that for a significant part of Nepali society transitional justice issues still remain topical. Yet, donors have withdrawn from engaging on Transitional Justice in Nepal because the designed process did not meet international standards, including norms regarding impunity for human rights violations. Considering the importance of the issue, the fact that credibility and trust in rule of law hinges to a large extent on the progress made in TJ, and the potential that TJ issues could derail important peacebuilding and state building dividends that have been achieved to date, this is an opportune moment for donors to re-evaluate their engagement, or lack thereof, in TJ. The most significant risk is that political commitment to TJ is waning or absent altogether. Many interlocutors noted that the most important contribution of donors is political pressure and stimulating the demand for TJ. In this regard, donors should seek to support victims seeking justice and continue to advocate for TJ to be prioritized and effectively resourced by Government. Such support could also include advocacy for and then monitoring of the transitional justice process.

Security and justice institutions are critical to underpinning socio-economic development. While mainstream Nepali society seems to have refocused on socio economic reforms, representatives of various marginalized and vulnerable groups continue to stress that a large number of conflict drivers,
including discrimination and inequality within the security and justice sector, remain hidden beneath the surface. In donor project documents, assessments, but also discourse it is clear that attention to drivers of conflict has all but disappeared in the past few years. In this regard, given the continued fragility of the context, the justice reform process needs to continue to monitor but also adhere to a conflict sensitive approach. This includes ensuring that reforms do not create further imbalances in inequality but also that all structural or procedural reforms directly address possible conflict drivers. Areas of priority engagement should include ensuring that access to justice is not contingent on wealth or status, services and treatment remain uniform and responsive to all ethnic and gender groups, and that significant effort is made to ensure adequate access to justice for the most marginalized groups who are in fact disproportionately more effected by poor justice and security service delivery.

**Recommendations**

18 **Donors should re-engage on transitional justice by focusing on providing support to victims seeking justice and strengthening advocacy efforts on transitional justice issues.** Potential support to victims could include legal aid, funding CSO monitoring mechanisms of the TJ process, and supporting community based advocacy forums and grass-roots initiatives, e.g. a website to share TJ histories.

19 **All justice and security sector reform related programming should continue to apply a conflict sensitive approach to reform.** Donors and civil society should continue to analyse, monitor and address remaining conflict drivers and provide targeted support to resolve issues when needed. Continued attention should be given to sustaining early warning mechanisms at community and national level.

**GENDER**

Committing political, technical and financial priorities towards promoting gender responsive and inclusive institutions

The extent to which an individual has effective access to justice largely depends on gender. It is clear that in the Nepal context, but also in line with global challenges, women are more at risk of physical abuse or harm but also face comparatively greater obstacles in accessing justice. This includes 48 percent of women informally admitting to facing some form of abuse or physical harm at least once in their lifetime or accounting for 60 percent of human trafficking cases. Social and cultural norms and even discriminatory practices by applied by security and justice institutions all pose a significant obstacle to accessing justice services for a large percentage of women. Equally, women who are victims to crime are commonly pressured by authorities, including police and courts, to either drop charges or to mediate their cases. This is commonly the case even in serious cases of rape or domestic violence. In this regard, ensuring that the justice sector becomes more responsive to women’s security and justice needs is fundamentally important to the relevance of the future and current justice reform efforts, helps to ensure that Nepal meets their international commitments related to gender (e.g. CEDAW) as well as critical to building and restoring public trust in the institutions. While the interviews during the assessment confirmed that there is a wide awareness of the gender related security and justice issues at both operational and senior management levels.
across security and justice institutions, there was no evidence found that there is a strong commitment or will to prioritize the issue – reaffirming that continued efforts of advocacy and women empowerment are needed to raise the profile of the agenda.

A significant amount of donor funding is provided to empowering women, addressing GBV, and promoting more gender responsive justice system. The initiatives include a range of support that spans from assistance in organizing the National Women Lawyers Conference, developing and capacitating dedicated structures to deal with GBV (eg. Womens and Childrens centers in the Nepal Police), to basic gender sensitisation courses. Such programmes operate both at central level but also across a significant number of communities and Districts. The cumulative effect of the support has been an evident increase in general awareness amongst legal and law enforcement practitioners of gender related issues. Rather, the challenge has been to change behaviour, hold institutions and individual to account for violations of norms and legal standards, but also to ensure women are part of the decision making processes and leading implementation of reforms.

To make the justice institutions more accessible to women, and other marginalised and vulnerable communities, women from those communities need to see themselves reflected back in positions of power within the institutions. It is more likely that the high number of unreported cases of abuse faced by of women reporting (see section 1) can be reduced if there were significant number of role models within the institutions but also an increased number of women in senior positions that would otherwise be able to champion non-discrimination and equal access to justice. According to some surveys, women have directly identified the lack of inclusive security and justice institutions as a key barrier to accessing justice. In fact, areas that have developed dedicated Women and Children’s Centres within the police have seen a 30 percent increase in reported crimes by women. Nonetheless, in the absence of deliberate and sustained efforts, little progress has been achieved in ensuring gender equality in staffing in the judiciary, prisons, and OAG especially at mid to senior management levels. With only ten percent of practicing lawyers being women the prospects that the institutions will approach gender parity is unlikely. Such a goal would require more transparency in recruitment processes and proactive steps to empowering women and minorities to find employment at senior positions in the Judiciary, police and OAG is desirable.

A possible first step could be advocacy to ensure that women are adequately represented on bodies responsible for recruitment and promotion, including the Judicial Council. Second, the analysis of the challenges in ensuring equal employment opportunities needs to progress beyond assumptions and generalities. More needs to be done to understand the specific obstacles and opportunities women face in attaining jobs in judicial bodies. Third, positive discrimination policies training, recruitment and promotion policies needs to be considered at all levels. Indicators and statistics of how many women are in senior management positions, mid-management and junior ranks needs to be systematically tracked and updated to effectively gauge the extent to which policies on promoting gender equality are effective. Such analysis needs to be comprehensive and cross-sector. In addition, to improve the legitimacy and effectiveness of internal oversight mechanisms within the institutions, particular attention should be given to examining the extent to which internal inspection and

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82 Saferworld, Justice Mechanisms and Conflict Dynamics (2016)
accountability mechanisms, such as court inspection units or Judicial Council members, are gender balanced but also effectively trained on gender related issues.

A central aim of reform should be to ensure that women are offered the necessary training and coaching to assume mid and senior management positions. In regards to the police such efforts should include a focus on providing support to enable women to take on greater operational command functions and responsibilities. A possible entry-point should include dedicated leadership training for women across all the institutions, though it should remain targeted to the specific job requirements and functions unique to each institution. In parallel, more deliberate efforts at gender equality across institutions should include providing incentives for private law companies to hire new women law graduates as interns or favouring women and minorities in recruitment of legal aid lawyers. While such internships have been offered through the UNDP RoLHR programme on 6 month basis, it is important that such programmes are both expanded in breadth and depth and sustained in the medium to long-term. There needs to be a wide cadre of young practicing women lawyers who can then apply for senior positions within the judiciary, OAG, but also take on more active roles in the Nepal Bar Association. While reform of the human resource management system is needed across the sector, there is little evidence that there is serious commitment to such reform in the given context.

20 Donors should work to mainstream gender and minority empowerment across programmes. Empowerment could include leadership training for women in the institutions to provide them with the experience and skills to assume more responsible management positions, including operational command roles and senior ranks within the police. Complementary support could include providing or sponsoring professional development activities, including scholarships for women and minorities in law firms, and developing mentoring programmes for young professionals from vulnerable and minority groups.

As an entry-point for more focused and ambitious gender mainstreaming efforts within institutions donors should seek to fill the existing deficits in critical analysis of gaps and obstacles to gender mainstreaming across all security and justice institutions. A gender self-assessment exercise, led and organised by each of the institutions with technical assistance from donors if needed, could be a first step to completing such analysis while also empowering national institutions to identify the challenges and opportunities to improving gender responsiveness and equality themselves. A second step could be to ensure that the gender sensitive budgeting, used by the Ministry of Finance, is rolled out to the institution specific budgets to verify the extent to which activities and resources are gender sensitive and responsive. The budget should thereafter be complemented by specific action plans, integrated into wider institutional strategies, on how gender equality would be addressed as integral components of efforts to improve institutional effectiveness, integrity and responsiveness.
ANNEX A – DEVELOPMENT PARTNER SUPPORT TO SECURITY AND JUSTICE REFORM

The following provides an overview of some of the development partner support to various components of security and justice sector reform. The mapping is organized by thematic areas (e.g. gender based violence) as well as institutional support (e.g. police reform). The mapping was compiled by a mix of desk based review of online resources as well as interviews with relevant development partner agencies and NGO. The mapping aims to capture both recently completed (2014-2017) programmes, ongoing projects and those that are being planned. With over 40,000 registered NGO in Nepal, and no available database on which NGO are active in justice reform related activities, this mapping was only able to cover a small percentage of the overall NGO initiated activities in the sector. While human rights related work is integral to justice system delivery and reform, due to the significant number of programmes related to human rights across Nepal, the mapping was not able to cover the full size and scope of such projects.

It is notable that year on year there has been a noticeable decline in both the number of donors providing support as well as the overall financial envelope made available by donors to security and justice reform in Nepal. As a case in point, while in 2013 the number of active donors in the sector was roughly 4084, in 2017 it was less than 10 bilateral donors and five multilateral donors who have active and regular engagement in the sector. This figure is likely to continue to decline as some donors, such as Denmark, have signalled their withdrawal from the sector while others have noted their financial commitment to the sector is likely to be further reduced in future programme cycles.

Looking ahead, the donor landscape is likely to change significantly in 2018. A number of leading programmes have uncertain futures. This includes the UNDP Rule of Law and Human Rights (ROLHR) programme which has been implemented since 2013 with an estimated budget of 22 million USD and has been the leading programme in capacity building of the OAG and Judiciary as well as legal aid. Following the end of the current programme cycle in 2017, it is likely that the programme will see a significant alteration in scope and approach of work. Given uncertain funding, it is unclear as to what the programme priorities will be nor the likely size of the programme. Equally, the Governance Facility, which has been the leading platform to finance NGO and CSO work at community levels, has guaranteed funding only until end 2018. With the stated intent of Denmark, which is amongst the leading donors supporting the Governance Facility, to end all programmatic and funding support in Nepal by 2018, it is unclear how the evident funding gap will be addressed by the Governance Facility. In this regard, the only programme with a stated financial commitment to supporting elements of justice and security sector reform is the UK funded Integrated Programme for Strengthening Security and Justice, which is implemented from 2014 to 2020 with an estimated budget of 60 million USD.

It is notable that no example of direct capacity building support to the Ministry of Justice or Home Affairs was identified. Mirroring the trends identified in the assessment, management and accountability reforms are not a primary focus of donor programmes. A majority of programmes across the sector focus on capacity building, namely training support. It is notable that most donors

84 http://www.tandfonline.com/eprint/DkAmpRz7UQfeqGtC2hC8/full
are active in support to the police while relatively few programmes substantively and regularly engage with corrections or OAG.

The annex is structured according to three sections:

- Institution specific support
- Thematic support
- Summary of engagement by donors

### INSTITUTION SPECIFIC SUPPORT

#### POLICE REFORM

The leading donors supporting various aspects of police reform include US, UK, China, and India. Complementary support to police reform includes smaller scale support from Australia, Denmark, and France. It is notable that significant technical or financial assistance to police reform is also provided by Asia Development Bank, Asia Foundation, ICRC, UN Women, and UNICEF. The predominant focus of donor support is provided to capacity building and infrastructure, with relatively fewer engagements found related to strategic level management and accountability reform. Overall, most donor engagements are found at tactical and operational levels, with only small scale and short-lived support to strategic level reforms.

It is notable that in 2016, the Armed Police benefitted from training support from over 14 countries and since 2001, 37 different countries have provided training support. In 2016, 143 Armed Police officers benefitted from training outside of Nepal. The mapping was unable to identify the specific content or scope of such training.

#### STRATEGY/MANAGEMENT

**THE ASIA FOUNDATION**

With financial support from Australia, the Asia Foundation aims to support the Nepal police to convene consultations and strategic planning sessions for re-structuring of the police towards a federal model.

**UK-UNOPS**

In the framework of the Integrated Programme for Strengthening Security and Justice, UNOPS, with funding from the UK, is providing support to the Nepal police to develop a basic performance management system (PFS). As part of this support the programme aims to develop a basic concept for PFS, a strategy and action plan for PFS, and to train up to 100 officers on PFS processes and systems.

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[85](https://www.apf.gov.np/pages/foreign-training)
SAFERWORLD
Since 2009 Saferworld has been working with the Nepal Police and local communities to organize **community dialogues** on emerging security threats and to discuss local security strategies and partnerships between police and the communities. Part of this support includes helping the police to understand community needs and perceptions – including through development of community based perception surveys related to the work of the police.

TRAINING

**US EMBASSY**
In 2014 and 2015, the US Embassy provided support to the Nepal Police and Armed Police Force in conducting **human rights training** for a select number of police officers. The training, which was conducted in a train the trainer format, focused on issues of international human rights standards related to law enforcement, police conduct, ethics and non-discrimination practices. Complementary support included procurement of computers for the select number of police trainers. 86

US INL programme has provided support to both the Nepal Police and Armed Police Force to improve their **investigation techniques** and to develop specialised skills in **polygraph examinations**. In complementary support, INL has also supported training and mentoring of **Nepal UNPOL officers** deployed to peacekeeping missions. 87

**UK/UNOPS: INTEGRATED PROGRAMME FOR STRENGTHENING SECURITY AND JUSTICE**
The UK funded programme, which is implemented by UNOPS, will train up to 1000 police officers by 2018 on **crime prevention, service delivery, and community engagement approaches**. In complementary support, the programme has also produced a comprehensive **training needs assessment** for the Nepal Police.

**INDIA**
India provides training to 350 police officers annually through **study visits** to India. 88

**FRANCE**
In 2016, France provided training support to 20 police offices in the Nepal Police Academy in Maharajgunj. The training covered **investigation techniques, searches and forensic evidence collection**. The training also covered cyber investigations.

**INTERNATIONAL COMMITTEE OF THE RED CROSS**
In 2013 and 2014, the ICRC supported the Nepal Police to conduct its first dedicated training on **first aid and emergency response**. As part of the training, police officers learned how to handle dead bodies but also how they should respond to emergencies and natural disasters. 89

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87 [https://www.state.gov/j/inl/regions/europeasia/219028.htm](https://www.state.gov/j/inl/regions/europeasia/219028.htm)

THE ASIA FOUNDATION CTIP PROGRAMME
The Asia Foundation, through the Combatting Trafficking in Persons programme (funded by USAID), has provided training to police officers in **detecting and investigating cases of human trafficking**.

ADVOCACY FORUM
Advocacy Forum also provides training to Nepal police on **prevention and detection of torture**. Such training includes broader human rights issues.

POLICE – INFRASTRUCTURE/EQUIPMENT

UK/UNOPS: INTEGRATED PROGRAMME FOR STRENGTHENING SECURITY AND JUSTICE
The UK funded programme, which is implemented by UNOPS and Asia Development Bank, by 2017 began the process of **refurbishment and construction of 9 police stations**. The programme aims to build or refurbish a total of 20 new police units by 2018.

The programme has also supported the refurbishment of the **Central Forensic and Scientific Lab** operated by the Nepal Police. As part of complementary support the programme has also procured an Automated Fingerprint Identification System.90

INDIA
In 2016, India pledged support to Nepal Police to build and finance a **new Police Academy in Kathmandu**. The academy once built should be capable of providing training to 400 police officers on an annual basis.91

CHINA
In 2017, China provided grants and technical assistance in the construction of the first dedicated training **academy for the Armed Police Force of Nepal**.92

US/INL
The INL programme helped establish and build the first dedicated **women’s barracks at the Nepal Police Training Academy**.

NEPAL POLICE – GENDER/CHILDREN

ASIA DEVELOPMENT BANK/UK
The co-funded UK and Asia Development Bank programme to strengthen **Women and Children Centres** within the police aims to support the Nepal police to build and staff Women and Children Centres in 13 District Level police HQ. The centres are usually the first point of contact for

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91 https://devtracker.dfid.gov.uk/projects/GB-1-203274/documents
92 http://news.xinhuanet.com/english/2017-07/01/c_136407861.htm
women/children victims but also commonly deal with cases of women/children in conflict with the law. By 2018 the programme will also establish and furnish a central level WCC in Kathmandu.93

In complementary support the programme also aims to train 40 senior police officers on gender sensitive investigations and counselling. The aim is to have the 40 senior police officers thereafter provide further training support to peers. By 2018, over 900 police staff and service providers will be given training on GBV and communication skills. The overall aim of the support is to increase the number of reported or referred cases of GBV to the WCC.

**UNICEF/UK**

As part of the overall UK funded Integrated Programme for Strengthening Security and Justice, UNICEF is helping to undergo a capacity-gap analysis of the Women and Children’s Centres. The support includes developing a specific manual for training on GBV that will be used to train all WCC staff. The programme will support training of over 150 staff by 2018 based on the contents of the manual.

As part of complementary support the programme will help train community watch groups on GBV crime as well as help empower the groups to advocate for awareness to social norms that help drive GBV related crimes in communities. The programme will engage community leaders, men and women to jointly implement programmes to help change social norms related to GBV at community level.

**SWITZERLAND – UNITED NATIONS POPULATION FUND**

Working in Okhaldhunga, Udayapur and Sindhuli Districts, the project has worked with local police to develop their capacities and awareness on dealing with GBV cases in a more sensitive way. As part of the support, police officers receive training on legal standards related to GBV.

**UNICEF**

In 2016, UNICEF helped train 180 police officers on dealing with cases involving juveniles (in conflict with the law or victims) as well as gender based violence.

**POLICE – MEDIA**

**UK/CENTRE FOR LEGAL RESEARCH/ SEARCH FOR COMMON GROUND**

Centre for Legal Research and Search for Common Ground (with UK funding) have been implementing a media based programme to help improve trust and collaboration between the public, communities and police. As part of the project, 13 tv series have been created that focus on identifying cases of the community supporting the police in detection and investigation of crime – based on real life events. As part of this programme 12 journalists will receive specialised training related to policing while 120 Community Mediation Center staff will also receive training. Overall, the

Pahunch project will train 1000 members of community watch groups to help improve community-policing relations.  

SAFERWORLD
Safeworld has worked with the Nepal police to produce documentaries on showcasing the contribution of women to policing and public security. Safeworld has also supported the development of the National Action Plan for UN Security Council Resolution 1325 and 1820 – women, peace and security.

UNDP: ROLHR PROGRAMME
The UNDP RoLHR programme provided support to the National Women’s Commission to develop a GESI training manual which was subsequently used to provide training to law enforcement officials.

POLICE - ACCOUNTABILITY

UK: INTEGRATED PROGRAMME FOR STRENGTHENING SECURITY AND JUSTICE
The UK funded programme, with implementation support from Her Majesty’s Inspectorate of Constabulary, is providing training for 4 senior police inspectors and one officer from the Ministry of Home Affairs on how to conduct internal police inspections. As part of this programme an inspection plan and inspection methodology will be developed for the Nepal Police Inspection Unit.

DANISH INSTITUTE FOR HUMAN RIGHTS (DIHR)
Through the “Enhancing Good Governance, Human Rights Protection and Law Enforcement Situation in Security Agencies and Criminal Justice Actors in Nepal” the Danish Institute for Human Rights has partnered with the Nepal Law School to assist the Nepal Police, Armed Police Force and Forest Guard to develop their human rights protection capacities and systems. The project was implemented in three phases. The first phase focused on developing a comprehensive baseline study on the prevalence of torture and improper use of force within the Nepal Law Enforcement agencies. This phase included a review of the existing regulatory framework governing prevention of torture. In the second phase of support, the programme worked with mid ranked managers and officers from the Nepal Police, Armed Police, and Forest Guards to develop individual mini-projects at operational level to help raise awareness to torture and to help develop mechanisms to prevent torture and minimize incidence of improper use of force. The aim of the support was to help address some of the underlying root causes that account for such behaviour within law enforcement. The third phase focused on providing concrete analysis and evidence to senior leadership across law enforcement institutions on the prevalence and challenges related to improper use of force, inhumane treatment or torture.

94 https://www.sfcg.org/pahunch-reality-show/
OFFICE OF ATTORNEY GENERAL

While a number of donors engage with the OAG through ad hoc or one off trainings on a wide range of issues, few examples of dedicated and sustained capacity building support to the OAG were identified in the mapping. The exception includes cross sector programmes dealing with human trafficking (see below).

STRATEGY

UNDP: RoLHR PROGRAMME
The UNDP RoLHR programme provided support to the OAG in developing its second 5 year strategic plan. In parallel support it has also helped to develop basic M/E capacity within the OAG to help monitor the implementation of the plan. The project organized a series of consultations with district prosecutors on the plan as well as organized the first Attorney Conference.

In additional support, the programme supported the OAG in developing a digitalized archiving system for case documentation. The support included technical and advisory support to the OAG to build a basic case tracking system for prosecutors.

THE ASIA FOUNDATION
In 2017, the Asia Foundation provided support to the OAG to develop a concept and consider the implications of the federalized structure of Government. This includes helping to clarify and conceptualize jurisdictional implications for the OAG tiered structure.

OPERATIONAL MANAGEMENT

CHILD FRIENDLY VICTIM ROOMS - UNICEF
UNICEF has supported the OAG in setting up 20 victim friendly rooms in 20 district prosecutor offices.

TRAINING – CAPACITY BUILDING

UNICEF
UNICEF has helped incorporate child protection related modules into the official training programme of the OAG. In 2015, 60 attorneys were trained on juvenile justice, child/victim protection, diversion and restorative justice.

THE ASIA FOUNDATION CTIP PROGRAMME
The Asia Foundation, through the Combatting Trafficking in Persons programme (funded by USAID), has provided training to the OAG in investigation and prosecution of cases of human trafficking. Complementary training was also provided to prosecutors on developing a victim centric approach to justice as well as collection of forensic evidence. Specialized training and awareness raising was also

provided on new forms of trafficking, including organ and labour trafficking. As part of the programme support, TAF has also helped to strengthen coordination and collaboration between the police and prosecutors in cases related to human trafficking.98

**TAF/CELRRD**

From 2014 to 2015, CELRRD, with funding from TAF, provided training to prosecutors on **DNA analysis and forensics**. The aim of the support was to develop basic forensic knowledge and promote greater use of forensic evidence in prosecution of cases.

**ADVOCACY FORUM**

Advocacy Forum also provides training to prosecutors on **prevention and detection of torture**. Such training includes broader human rights issues.

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**EXTERNAL MONITORING**

**WINROCK**

Through the Hamro Samman project and with USAID funding, Winrock aims to help develop ICT solutions to help victims and survivors of **human trafficking** to track prosecution of cases. Additional support is envisioned in the programme (2016-2022) to help prosecutors and police to develop skills to identify and investigate cases of human trafficking.99

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**JUDICIARY**

A large number of programmes work directly with the various levels of the judiciary. A large majority of programmes focus on capacity building and regulations. In comparison, few examples of support were found related to operational management or accountability.

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**STRATEGIC MANAGEMENT**

**NEPAL LAW SOCIETY**

The Nepal Law Society is planning to support the Judiciary in adapting and conforming to the new **federal structures** and new constitutional provisions. In addition, it is supporting the judiciary to assess and bring down costs for court users through new guidelines.100

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**OPERATIONAL MANAGEMENT**

**UNDP: ROLHR PROGRAMME**

The UNDP RoLHR programme has provided support to the judiciary to develop a **communication strategy** and capacity. This includes development of help desks in 23 district courts that enable court users to access basic information regarding the work of the court, procedures, and general questions about access to justice.

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98 [https://asiafoundation.org/resources/pdfs/NepalCTIP.pdf](https://asiafoundation.org/resources/pdfs/NepalCTIP.pdf)
100 [http://nepallawsociety.org/Activities-Independent-Judiciary.php](http://nepallawsociety.org/Activities-Independent-Judiciary.php)
The programme provided assistance to the NJA to develop a **manual on processing GBV cases**. In additional support, the programme also helped to develop a bench book entitled Legal Provisions and Precedents on Combating Violence against Women.

The programme has also provided support to the Judiciary to develop a comprehensive **10 year IT strategy**. The strategy includes automation of documentation as well as case management roll out.

**JICA: PROJECT FOR STRENGTHENING THE CAPACITY OF COURT FOR EXPEDITIOUS AND RELIABLE DISPUTE SETTLEMENT**

JICA has provided support to the judiciary in developing a basic **automated case management system**. The programme, which is implemented from 2013 to 2018, includes support in developing case management guidelines, development of the automated case management system as well as support to the strengthening of the automated case management system. The support includes study visits to Japan for a select number of judges and court staff.

In parallel support, the programme has also helped the Judiciary in developing systems and awareness to **court referred mediation**.  

**INTERNATIONAL ALERT**

International Alert, with funding assistance from the European Union, has provided support to the Supreme Court and Judicial Academy to develop a set of **‘common principles’ of justice**. Some of these principles help define the roles and mandates of informal justice providers.

**UN WOMEN**

UN Women has supported the judiciary to develop **specialized guidelines for “in camera” hearings**. In 2016, UN Women supported the Supreme Court and Judicial Academy to conduct research on the women’s access to justice in Nepal.

**HUMAN TRAFFICKING – THE ASIA FOUNDATION CTIP PROGRAMME**

The Asia Foundation, through the Combatting Trafficking in Persons programme (funded by USAID), has provided support to the judiciary to develop **engendered jurisprudence** on human trafficking and GBV cases.

**INTERNATIONAL LEGAL FOUNDATION (ILF)**

ILF is currently working with the Judiciary to strengthen the **court appointed legal aid** systems by introducing certification requirements for lawyers and to ensure that such a system is also extended to defence proceedings in quasi-judicial bodies.

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102 [https://asiafoundation.org/resources/pdfs/NepalCTIP.pdf](https://asiafoundation.org/resources/pdfs/NepalCTIP.pdf)
TRAINING

UNDP: ROLHR PROGRAMME
The UNDP RoLHR has supported the National Judicial Academy to organize training for the judiciary in technical legal drafting and presentation of court decisions.

The programme has also provided training to court staff and judges on holding in camera hearings.

UN WOMEN
UN Women has been providing training and sensitisation to a select number of judges and court staff on gender and gender based violence issues.

TAF AND CELRRD
From 2014 to 2015, CELRRD, with funding from TAF, provided training to judges on DNA analysis and forensics. The aim of the support was to develop basic forensic knowledge and ensure that such evidence is used appropriately during trial.

ADVOCACY FORUM
Advocacy Forum has been working with the Judiciary to ensure that its structures, processes and sentencing are more gender sensitive and responsive. Such support includes training of judges on gender and GBV.

Advocacy Forum also provides training to judges on prevention and detection of torture. Such training includes broader human rights issues.

In parallel programmes, Advocacy Forum also provides training on handling and dealing with cases of juvenile justice in courts. The programme also monitors the extent to which established procedures for juvenile justice are followed during trial.

NEPAL LAW SOCIETY
The Nepal Law Society has helped to develop and deliver a system of peer to peer training in the judiciary, whereby senior judges train junior judges. The training largely focuses on building capacity in emerging areas such as commercial law, cyber laws, and constitutional law. It complementary support, the Nepal Law Society has also helped to develop methodology and sensitisation of judges on applying court precedence.

ACCOUNTABILITY

UNDP: ROLHR PROGRAMME
The UNDP RoLHR has supported the judiciary in 2016 to conduct an integrity self-assessment. Complementary support included study visits to the US for a select number of judges on learning about the integrity system as well as supporting the judiciary in sensitisation/orientation on judge’s code of conduct.
THE ASIA FOUNDATION
The Asia Foundation, in cooperation with partners such as CELRRD, has been providing long-term and comprehensive support to the Mediation Council. At strategic level they have helped to develop a certification process for mediators, develop a basic 8 day sensitisation and training system for mediators, as well as develop a basic monitoring system for the mediation council to oversee the work of mediation centres. They have also helped to develop 504 mediation centres at village level in 40 Districts. The programme has helped to provide additional re-fresher trainings on gender mediation, stakeholder dialogue and land disputes.

TAF has also helped to establish the Community Mediators’ Society which has served to disseminate information and promoting mediation at community level. Over 2,500 mediators are part of the platform.

With additional funding provided by the Governance Facility, in 2017 TAF has also started work on ensuring mediation policy is more GESI sensitive and responsive. Part of the support includes roll out of more GESI sensitive policy and mediation practice in Banke, Chitwan, Dadelhura, Dhankuta, Dhanusha, Doti, Kailali, Kanchanpur, Kaski, Nawalparasi, Sarlahi and Tanahu Districts.

CENTER FOR LEGAL EDUCATION AND RESOURCE DEVELOPMENT (CELRRD)
CELRRD has provided support to the Judiciary to develop guidelines and manuals on mediation. Part of the support includes training on mediation to a number of judges, including those in Nawalparasi, Banke and Kanchanpur Districts.

MEDIATION SERVICE DELIVERY

NATURAL RESOURCE CONFLICT TRANSFORMATION CENTRE NEPAL
The programme, with financial assistance from The Asia Foundation, has been supporting local communities in Kavre, Sindhupalchok, Dolakha, Nuwakot, and Rasuwa Districts to resolve and transform conflict cases through mediation. The programme has provided direct training support to over 2500 mediators in those Districts. In addition, the programme has helped to build capacities of mediators and facilitate dialogue between various stakeholders to local conflict. The programme is building a digital database on the total number of registered cases of mediation in the pilot districts.

CELRRD
From 2014 to 2015, with funding support from the Governance Facility, CELRRD provided both mediation support to victims but also focused on legal awareness at community level. Mediation

http://nrctc.org.np/campaigns/osp/
support has been provided in Morang Makawanpur, Bardiya, Jhapa, Nwalparasi, Rupendehi, Dang, Banke, Kailali, Kanchapur, and Kathmandu.

In 2015 and 2016, with funding from USAID, CELRRD provided mediation training in communities affected by the earthquake. This includes legal aid services in Lamjung, Gorkha, Dhading, Makawanpur and Remechhap.

In 2017, with funding from the Governance Facility, CELRRD provided support to vulnerable groups (women, poor and marginalized groups) to access mediation services. The support focused on Ilam, Panchthar, Okhaldhunga, Morang, Bara, Parsa, Makwanpur, Kathmandu, Rupandehi, Bardiya, Banke, Kailali, and Kanchanpur Districts.

**RURAL WOMEN’S DEVELOPMENT AND UNITY CENTER (RUWDUC)**

RUWDUC, with financial assistance from the Governance Facility, has been providing support to local communities, including marginalized groups, to strengthen access to mediation. Part of the support includes facilitating collaboration between the various justice providers at community level. The support currently focused on Doti, Dadeldhura, Kailali, Chitwan, Tanahun, Sarlahi, and Dhanusha Districts.

**PRISONS AND CHILD PROTECTION/CORRECTION HOMES**

**OPERATIONAL MANAGEMENT**

**CENTER FOR VICTIMS OF TORTURE (CVICT)**

CVICT, with funding assistance from the European Union, has provided support to the Department of Prison Management to advance and develop a concept of open prisons. In addition, the programme has supported the Department to further develop its case file management and tracking systems of prisoners and detainees. The aim is to ensure more systematic approaches are applied to tracking duration of stay, services provided, legal aid and basic background of the detainees and prisoners.  

**CAPACITY BUILDING**

**UNICEF**

In 2015, in collaboration with the Juvenile Justice Coordination Committee, UNICEF has helped to train and deploy three social workers, two legal counsellors and two psychosocial counsellors in child protection homes. The aim is to ensure that children who are assigned to such child correction homes receive support for reintegration and rehabilitation in their communities.

In 2016, in the Juvenile Correction homes in Bhaktapur, Nepalgunj and Kaski districts, UNICEF has provided direct support to families and juveniles in conflict with the law in accessing legal counselling, defence services and psychosocial assessment and counselling.


SERVICE DELIVERY

PRISONERS ASSISTANCE NEPAL

In a select number of prisons, PA Nepal has helped to provide psychosocial support to both female and male prisoners. In addition, targeted support is provided to mentally ill prisoners. The programme provides reflexology, acupuncture and music therapy to such prisoners.

The programme also provide targeted support to female prisoners in Pokhora and Kathmandu Womens prisons, Dhulikhel, Nakh Chitwan, Biratnagar, Birjung and Jhapa prisons. The programme provides education programmes to women to enhance literacy rates. Rehabilitation programmes include sewing, bakery training, and mushroom farming as a means to help develop skills for future employment. The programme also provides training and sensitisation to women to detect early symptoms of HIV but also to conduct basic first aid.

INTERNATIONAL CHILD RESOURCE INSTITUTE (ICRI)

With funding from UNDP, ICRI has developed to develop the Network for Children, Prisoners and Dependents (NCPD). The network, which includes Justice For All, Nepal Childrens Organization, Nepal Children Welfare Foundation, Prisoner Assistance Mission, Prisoner Assistance Nepal, Parizat Nestling Home, Sahara Group Nepal and SETU Nepal, to organize and deliver HIV/AIDS prevention sensitisation, vocation training and psychosocial support to prisoners and their dependents. As part of the programme, 1250 children of prisoners are being given education and development support. In addition, over 500 prisoners and their families have been given HIV care and treatment.

EXTERNAL OVERSIGHT

TERAI HUMAN RIGHTS DEFENDERS ALLIANCE (THRD)

With funding from the Governance Facility, THRD has been monitoring prison conditions and treatment of individuals in detention across the Terai region (18 Districts). The aim of the project is to reduce incidence of use of violent or deadly force by law enforcement agencies, prevent torture in police detention facilities, but also to ensure greater accountability of security and justice providers.

ADVOCACY FORUM

In partnership with UNICEF, Advocacy Forum has been conducting police custody monitoring. Particular focus of the monitoring is on reviewing the circumstance and treatment of juveniles held in police custody.

CENTER FOR VICTIMS OF TORTURE (CVICT)

CVICT, with funding assistance from the European Union, has facilitated monitoring visits of judges to prison facilities. The assistance included capacity building in promoting improved quality and comprehensive of such monitoring visits. In addition, the programme has organized media

107 https://panepal.org/our_program/jail-programs/
108 http://www.icrichild.org/nepal/
campaigns and public outreach events (eg. theatre) to raise awareness to overall prison conditions, including incidence of torture. The programme works primarily in two prisons in Kathmandu.

BAR ASSOCIATION
Currently the only development partner programme providing direct and substantive assistance to the Nepal Bar Association is the UNDP RoLHR programme. Until 2012, the Norwegian Bar Association provided substantial technical and capacity building support to the Bar Association.

UNDP: ROLHR PROGRAMME
The UNDP RoLHR programme supported the NBA to develop a Code of Conduct for law practitioners. To help increase the number of practicing women lawyers, the programme has offered paid 6 month internships for young lawyers. In particular, the internship programmes has targeted both women and members of marginalized and other vulnerable groups.

INTERNATIONAL LEGAL FOUNDATION (ILF)
ILF has been providing training to members of the Bar Association who engage in defence of accused through the legal aid system (court appointed). The focus of the training was on defending indigent accused persons. The programme also provides mentoring and coaching to young lawyers engaged in criminal defence of indigent persons. The mentoring programme includes joint visitation of prison facilities, investigations, writ petitions and court appearances. In parallel, ILF has been engaged in providing legal aid to unrepresented individuals in detention.

JICA - PROJECT FOR STRENGTHENING THE CAPACITY OF COURT FOR EXPEDITIOUS AND RELIABLE DISPUTE SETTLEMENT
JICA has been supporting the Bar Association to develop a cadre of trainers on court referred mediation. The aim of the support is to strengthen the quality of such mediation processes but also to ensure that a system of training on mediation is developed within the Bar Association.

NEPAL LAW SOCIETY
With the aim of promoting increased specialisation amongst lawyers, the Nepal Law Society has provided specialized training to lawyers on specific law areas that include: taxation, trade law, human rights, labour laws, banking and commercial laws. In complementary support, the Nepal Law Society has also helped the Nepal Bar Association to refine the regulations concerning pre-requisite legal qualifications for all practicing lawyers. ¹⁰⁹

THE ASIA FOUNDATION
In 2017, the Asia Foundation provided support to the Bar Association to develop a concept and consider the implications of the federalized structure of Government on the work of the Bar Association. ¹¹⁰

¹⁰⁹ http://nepallawsociety.org/Activities-Independent-Judiciary.php
MINISTRY OF JUSTICE

LAW REFORM

JAPAN
Government of Japan has been assisting the Nepal Ministry of Justice to review and draft the Civil Code (promulgated 2017).

OSLO CENTER
The Oslo Center has supported the Ministry of Law, Justice and Parliamentary Affairs to conduct a comprehensive mapping of the required changes to the legal framework to ensure conformity with the new Constitution. The mapping outlined over 350 laws that will need to be amended or introduced. Oslo Center, together with the Nepal Law Society, aims to support the Ministry in further drafting as well as organization of consultations on individual laws.

NEPAL LAW SOCIETY
The Nepal Law Society, with support from Oslo Center and International IDEA, has been supporting the Government to review and amend legislation. Support includes organization of consultations at community and district level. In this regard, Nepal Law Society has helped to review and draft laws which include Company Law, Contract Law, Human Rights Law and Local Self Governance Law.

NITI FOUNDATION
NITI foundation provides support to community and Government to transform the process of policy development. The aim of the programme is to ensure that policies are developed through more inclusive, and performance/evidence based processes. This includes an aim to transform policy development processes into more transparent and predictable.

LEGAL AID / PUBLIC DEFENDERS

UNDP: RoLHR PROGRAMME
The UNDP RoLHR programme supported the Ministry of Justice to develop an integrated legal aid policy. The aim of the policy was to help develop an integrated system of legal aid, define procedures for accessing and delivery of legal aid, as well as to define the different legal aid modalities. In addition, the programme has helped the Ministry to review and amend the Legal Aid Act to include victims of gender based violence as automatic beneficiaries of legal aid.

The programme has also helped to introduce and developed Social Legal Aid Centers in ten Districts. The pilot SLACs undertake prevention outreach, mobile legal aid clinics, legal counselling and representation, shelters and psycho-social counselling.

The programme has also supported the capacity building of 7 District Legal Aid Committees (DLAC) and training of over 400 legal aid lawyers on various aspects the legal profession. The training and support was provided in collaboration with the NBA.
**HUMAN TRAFFICKING -THE ASIA FOUNDATION CTIP PROGRAMME**

The Asia Foundation, through the Combatting Trafficking in Persons programme (funded by USAID), has provided legal counselling and legal aid support to **victims of human trafficking** in 6 Districts: Banke, Kanchanpur, Kathmandu, Kavre, Makwanpur, and Sinduplachowk.

**CELLRD**

From 2014 to 2015, with funding support from the Governance Facility, CELRRD provided legal aid services to both victims and those that were accused. Such support was primarily provided in Morang Makawanpur, Bardiya, Jhapa, Nwalparasi, Rupendehi, Dang, Banke, Kaliali, Kanchapur, and Kathmandu.

**ADVOCACY FORUM**

Advocacy Forum has been engaged in providing legal aid services to **victims of human rights violations**, especially those that have experienced **torture, GBV, illegal arrest and detention**. The aim of the Advocacy Forum is to help create a better managed and more accessible legal aid system across Nepal.

**SANCHARIKA SAMUHA**

With funding assistance from the Governance Facility, Sancharika Samuha has been providing legal aid assistance to survivors of **SGBV** in Siraha, Sunsari, Ramechhap, Sindhupalchok and Dolakha Districts. In addition, the programme has been working with communities, victims and justice providers (both formal and informal) on raising awareness on human rights in order to strengthen legal awareness and encourage victims to seek justice.

**INTERNATIONAL LEGAL FOUNDATION (ILF)**

ILF has been engaged in providing legal aid to **unrepresented individuals in detention**. A specific focus of the support has been to ensure legal representation of accused in proceedings in quasijudicial bodies. In parallel, ILF has been engaged in strategic public interest litigation. With additional funds from the Governance Facility, ILF has provided public defence services in Kathmandu, Lalitpur, Bhaktapur, Kavre, Mohattari, Makwanpur, Parsa, Chitwan, Banke, and Bardiya.

**LAW SCHOOLS**

**UNDP: RoLHR PROGRAMME**

In 2016 and 2017, the UNDP RoLHR programme sponsored **scholarships for law students** from vulnerable groups, including women. The scholarships are given for the full five year B.A.LL.B program course in the Nepal Law Campus. In additional support, the programme provided additional coaching and mentoring to the select students.

**INFORMAL JUSTICE PROVIDERS**

**INTERNATIONAL ALERT, LACC, FWLD**
International Alert, LACC, and FWLD have provided training to informal justice providers on gender, human rights, ‘common justice principles’ and basic legal principles. The training is provided in 6 Districts. As an example, in Kailala, the programme has worked with the “Bhalansa” traditional justice providers in the Tharu communities on basic and international human rights standards and “common justice principles’ with the aim of ensuring that criminal cases are referred to the formal justice system.

Through regular visits to detention facilities, including prisons, advocacy forum aims to help prevent incidence of torture in such facilities. In parallel, Advocacy Forum pursues legal cases when cases of torture have been reported.

International Alert has worked with both state and non-state, including informal justice providers, to monitor the justice sector in six districts. Monitoring focuses on informal and formal justice practices and systems.

International Alert has helped to train over 270 traditional and formal justice providers in six districts on human rights and gender sensitivity.

THEMATIC SUPPORT
CONFLICT TRANSFORMATION – PEACEBUILDING – VIOLENCE PREVENTION

GIZ – CIVIL PEACE SERVICE PROJECT
GIZ has since 2008 provided support to community based programmes on truth telling, reconciliation, and conflict transformation. The programme facilitates dialogue and provides training to community leaders, victim organisations and other community organisations on conflict transformation. As part of the support, the programme also facilitates implementation of joint activities aimed at local level conflict resolution.111

NATURAL RESOURCE CONFLICT TRANSFORMATION CENTRE NEPAL
The programme, with financial assistance from the US, has supported community conflict transformation focused on natural resource related conflicts. Components of the programme include engagement with media, local government, political parties and conflict stakeholders to help facilitate dialogue, documentation of success stories, raising awareness, and to build capacity in dealing with conflict trasnformation processes. Part of the programme is advocacy and general awareness raising through media, websites and radio.112

UNDP – CONFLICT TRANSFORMATION PROGRAMME
The UNDP programme has helped to develop Collaborative Leadership and Dialogue forums and initiatives to create consensus on contentious transitional issues and to help directly prevent conflict at national and local levels. Part of the support is technical training on conflict analysis and do no harm, facilitation of dialogue, and even mediation facilitation at both national and local levels. The

111 https://www.giz.de/en/worldwide/31648.html
112 http://nrctc.org.np/campaigns/osp/
programme directly targets and supports capacity building of women, vulnerable groups and youth to engage in conflict prevention measures, including in political, identify or resource based conflicts. Complementary support is also provided to build capacity of media to analyze and report on complex community and national security and conflict issues.

The programme is supporting the Government to develop an early warning/early response mechanism to help identify and address emerging tensions at community level. In particular, the programme works with Local Peace Committees to develop their capacity to detect local tensions.

At national level, the programme has supported the Women’s Security Pressure Group to advocate for sexual violence legislation and to convene dialogue with relevant stakeholders, including parliamentarians.  

NITI FOUNDATION – GOVERNANCE FACILITY
NITI Foundation, with funding assistance from the Governance Facility, has focused on helping to resolve and identify possible community based disputes that stem from construction and operation of hydropower dams. Such support includes facilitating more inclusive and evidence based policy development processes to address potential grievances by communities.

SWITZERLAND – UNITED NATIONS POPULATION FUND
Working in Okhaldhunga, Udayapur and Sindhuli Districts, the project which is implemented from 2016 to 2018, aims to help raise awareness to gender based violence at community level. The programme helps to organize trainings and legal awareness campaigns. As well, using a system of tutors, the programme helps develop presentations, facilitate discussions and provide couples training to address violence in the home.

The programme has also supported GBV watch groups in communities and provided training to better assist women affected by gender-based violence prior to referring them to other state agencies. In the pilot regions, there has been a notable increase in reported cases of gender based violence since the programme started implementation in early 2017.

INSTITUTIONAL COORDINATION

UNDP: ROLHR PROGRAMME
The UNDP RoLHR programme has provided capacity building and facilitation support to the central JSCC and District JSCC in conducting regularly coordination meetings. Support includes training on M/E, case management, coordination, and Gender Equality and Social Inclusion (GESI). Overall 23 District JSCC were given direct support from the programme. The programme also provided dedicated training and advisory support to the JSCC secretariat.

In parallel support, the programme has also supported high level policy dialogue across the sector on a wide range of issues that include case management, continuous hearings, juvenile justice, GBV, and strategy development.

NEPAL LAW SOCIETY
The Nepal Law Society has helped to facilitate dialogue and **coordination between the judiciary and Nepal Bar Association**.114

INTERNATIONAL ALERT
At community level, International Alert has been working with both state and non-state actors to help strengthen coordination and define roles and responsibilities of each actor. Through support to the creation of ‘justice facilitation’ groups, the programme has helped strengthen dialogue between the groups and develop joint advocacy platforms on a range of issues related to justice at community level.115

### SUMMARY OF DONOR SUPPORT (PAST, ONGOING AND PLANNED PROGRAMMES)

**ASIA DEVELOPMENT BANK**
- Support to the development and strengthening of Women and Children Centers within the Nepal Police

**AUSTRALIA**
- Grant funding to The Asia Foundation to help develop a strategic concept for federalization of the Nepal Police.

**DENMARK**
- Funding to the Governance Facility
- Funding to UNDP RoLHR programme (2014-2018: 3.7 million USD)
- Danish Institute for Human Rights funded a programme “Enhancing Good Governance, Human Rights Protection and Law Enforcement Situation in Security Agencies and Criminal Justice Actors in Nepal’ which supports the Nepal law enforcement agencies to develop their human rights protection capacities and systems. The project had a specific focus on addressing prevalence of torture and improper use of force within the law enforcement agencies.
- Funding and capacity building support to the National Human Rights Commission (2016-2017)

**EUROPEAN UNION**
- Grant funding to the Center for Victims of Torture to help develop prison monitoring, case and file management, and develop concept of open prison (2016-2018).

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FINLAND

- Grant funding to the UNDP implemented Rule of Law and Human Rights project (2013-2017: 5.4 million EUR)

GOVERNANCE FACILITY

- Funded by UK, Denmark and Switzerland (2014-2018)
- The Governance Facility has developed a network of over 30 state and non-state partners engaging on a range of governance and justice issues, including at policy and service delivery levels. The aim of the facility is to both facilitate funding to small scale and strategic engagements but also to ensure coherence and joint strategy across a number of intervention areas. Coordination of the various project and programmes is developed through an integrated Results Framework. The Governance Facility has a dedicated secretariat providing coordination, policy and monitoring support to the various projects implemented by partners.
- Key focus priority going forward include support to Government in rolling out and conceptualizing federalization, natural resource management, access to justice.

ITALY

- Italy provides training for the Armed Police through study visits to Italy. Since 2001, 255 Armed Police officers from Nepal have attended such courses.¹¹⁶

NORWAY

- Grant funding to the UNDP implemented Rule of Law and Human Rights project (2013-2017: 3.18 million USD)

SWITZERLAND

- Grant funding to Governance Facility (2014-18: 9.3 million CHF)
- Funding support (2,95 million CHF 2016-2018) to United Nations Population Fund to implement a GBV prevention programme in Okhaldhunga, Udayapur and Sindhuli.
- Switzerland provides funding to a UNDP programme supporting the National Human Rights Commission to strengthen its capacity and effectiveness (2016-17: 800,000 CHF)

THE ASIA FOUNDATION

- Assistance to develop the national Mediation Council and support capacity of local mediation centres in over 500 communities (programme started in 2001). Support includes training, policy and legislative support (eg. 2014 mediation act), development of a certification process, and assistance in facilitating dialogue at community.
- Support to Nepal Police, OAG, and Bar Association in conceptualizing reforms in a federalized system (2017)

¹¹⁶ https://www.apf.gov.np/pages/foreign-training
• Combatting Trafficking in Persons Programme works with police and prosecutors to strengthen their detection, investigation and prosecution capacities. The programme has been funded by USAID.

UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)

• The UNDP has from 2013-2017 implemented a 22 million USD programme to provide support to the Ministry of Justice, Judiciary, OAG, Bar Association and other institutions in the justice sector. The programme, funded by UNDP contributions, Finland, Norway, and Denmark, has helped to develop information desks in District Courts, helped capacitate the Justice Sector Coordination Committee, strengthened Legal Aid Coordination/District Legal Aid Committees, and helped to advocate and build capacity of legal practitioners in GESI practice and policies. The programme has also helped to establish Social Legal Aid Centers in pilot districts.

UNITED KINGDOM

• Grant funding to Governance Facility 2014-2018
• The UK has launched a large scale programme, implemented jointly by UNOPS, Asia Development Bank and various local NGO, including through the Governance Facility, to help refurbish police stations, train police officers on GBV, provide legal aid services, develop training systems and capacity within the police, strengthen internal performance management systems and develop police inspection capacities (2014-2018: 45 million pounds).

USA

• Support to Police and Prosecutors – investigation and human rights training
• Funding to The Asia Foundation for the Combatting Trafficking in Persons project
• Funding to Winrock’s Hamro Samman project to help combat human trafficking. Principally, the programme aims to strengthen national and local Government efforts to combat TIP, improve civil society advocacy and engagement on TIP, and increase private sector partnerships to assist TIP survivors (2017-2022: 8 million USD).
ANNEX B - BIBLIOGRAPHY


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