

YEAR 40 • VOL. 27 • NUMBER 1 & 2 • 2016-2017
(A PEER REVIEWED JOURNAL)

ADVISORY BOARD

PATRON

Prof. Dr. Bijaya Singh Shrestha, Dean, Faculty of Law, TU

ADVISORS

Prof. Dr. Indira Raj Khanlota, Vice-Chancellor, TU

Prof. Dr. Sudha Tripathi, Rector, TU

NEPAL LAW REVIEW

Prof. Dr. Krishna Bhandari, Nepal Law Campus, TU

Prof. Dr. Praveen Adhikari, Nepal Law Campus, TU

Prof. Dr. Ramchandra Raj Pradhan, Nepal Law Campus, TU

Prof. Dr. Madan Chandra Subedi, Nepal Law Campus, TU

Prof. Dr. Bal Bahadur Mukha, Nepal Law Campus, TU

Prof. Dr. Shashi Kumar Adhikary Raut, Nepal Law Campus, TU

Associate Professor Karna Bahadur Thapa, President, TUTA, Nepal Law Campus Unit

EDITORIAL BOARD

EDITOR IN CHIEF

Dr. Chandra Shekhar Shrestha, Nepal Law Campus, TU

EDITORS

Shuk Kumar Shrestha, Nepal Law Campus, TU

Laxmi Sharma, Lecturer, Nepal Law Campus, TU

Aarfa Khatiwada, Lecturer, Nepal Law Campus, TU



NEPAL LAW CAMPUS
FACULTY OF LAW, TRIBHUVAN UNIVERSITY
KATHMANDU, NEPAL
2019

NEPAL LAW
REVIEW
(A Peer Reviewed Journal)

PUBLISHER:

NEPAL LAW CAMPUS
FACULTY OF LAW
TRIBHUVAN UNIVERSITY
KATHMANDU, NEPAL

©NEPAL LAW CAMPUS, 2019

PRICE NRS 400.00
OUTSIDE OF NEPAL US\$ 20

ISSN: 2505-0869

Copies 2000

Printed by: Tribhuvan University Press, Kritipur, Kathmandu

Authors are solely responsible for their opinions and linguistic styles of the articles. The views of authors do not reflect the views of Nepal Law Campus.

NEPAL LAW REVIEW

ADVISORY BOARD

PATRON

Prof. Dr. Bijaya Singh Sijapati, Dean, Faculty of Law, TU

ADVISORS

Prof. Dr. Tritha Raj Khaniya, Vice-Chancellor, TU

Prof. Dr. Sudha Tripathi, Rector, TU

Associate Professor, Dilli Ram Upreti, Registrar, TU

Prof. Dr. Laxmi Prasad Mainali, Head, Central Department of Law, T.U.

Prof. Mr. Gunanidhi Nyaupane, Nepal Law Campus, T.U.

Prof. Dr. Susmita Singh Karki, Nepal Law Campus, T.U.

Prof. Mr. Purna Man Shakya, Nepal Law Campus, T.U.

Prof. Dr. Krishna Belbase, Nepal Law Campus, T.U.

Prof. Mr. Pravakar Adhikari, Nepal Law Campus, T.U.

Prof. Mr. Ramesh Raj Pradhan, Nepal Law Campus, T.U.

Prof. Dr. Nutan Chandra Subedi, Nepal Law Campus, T.U.

Prof. Dr. Bal Bahadur Mukhia, Nepal Law Campus, T.U.

Prof. Dr. Shashi Kumari Adhikary Raut, Nepal Law Campus, T.U.

Associate Professor Karna Bahadur Thapa, President, TUTA, Nepal Law Campus Unit.

EDITORIAL BOARD

EDITOR IN CHIEF

Dr. D.N. Parajuli, Campus Chief, Nepal Law Campus

EDITORS

Bibek Kumar Paudel, Associate Professor, Nepal Law Campus

Laxmi Sharma, Lecturer, Nepal Law Campus

Apurba Khatiwada, Lecturer, Nepal Law Campus

Note from the Editor-In-Chief and Campus Chief

I am very glad that 2016-17 issue of Nepal Law Review has been published. Nepal Law Review is the oldest law journal in the Country and carries a rich history and tradition of legal discourses and knowledge creation. It gives me a great pleasure to share with you that from this issue, Nepal Law Review is going to be a peer review law journal. With peer review of the manuscripts, I hope the quality and intellectual depths of Nepal Law Review will improve further.

Indeed this novel beginning in the publication of Nepal Law Review is one of the reasons for the delay in the publication of this issue. We are going to work harder from now on to ensure that we publish on time and also improve the quality of the publication. In order to improve the quality of the publication, we are already working to develop detailed guidelines for the submission of manuscripts for Nepal Law Review. We are also going to make peer review process more robust in the future publication.

One cannot stress enough that the role of a good publication in the development of scholarship is profound. The fact that a law journal can contribute to knowledge creation and in instigating intellectual debates on the pertinent issues of the time makes it one of the most vital endeavors of Nepal Law Campus. I hope faculty members, students and other law professionals continue to support this important endeavor of Nepal Law Campus in the future. I also would like to extend my gratitude to the members of the editorial board, peer reviewers, faculty members and staff of the Campus, and everyone who assisted in the publication of this issue.

Dr. D.N. Parajuli

Associate Professor
Campus Chief

Contents

New Aspects of Muluki Criminal Procedure (Code) Act, 2017 (2074) and Rules 2018 (2075) on The Investigation and Prosecution Procedure: an Observation	1
<i>Prof. Dr. Rajit Bhakta Pradhananga Diwakar Bhatta</i>	
Legislative and Policy Measures on Climate Change in Nepal	23
<i>Dr. Bijay Singh Sijapati</i>	
Spirit of Inclusive Justice Under the Constitution of Nepal	42
<i>Dr. Nutan Chandra Subedee</i>	
Cognitivism and Non-Cognitivism of Legal Politics	55
<i>Dr. Bal Bahadur Mukhia</i>	
Applying Regional Framework to Resolve Refugee Management in Nepal	68
<i>Yadav Kumar K.C.</i>	
Negative Vote – Right to Reject an Analytical Overview	77
<i>Dr. Govind Gautam</i>	
Shall the Dreams Come True? Reconciling the Difference and Providing Justice to the Victim in Post Conflict Situation in Nepal	87
<i>Karna Bahadur Thapa</i>	
Dalit Rights in the Constitution of Nepal	112
<i>Krishna Prasad Bashyal</i>	
An Appraisal of Nepalese Secularism	123
<i>Suresh Kumar Dhungana</i>	
An Overview of Constitutionalism with Reference to Nepal	134
<i>Jagat Bahadur Bhandari</i>	
Right to Equality for Social Justice and Judicial Initiative	146
<i>Binod Bashyal</i>	
Aggravating and Mitigating Factors of Crime Under the Muluki Criminal Code, 2074	160
<i>Bibek Kumar Paudel</i>	
Comparative Study on Recognition and Enforcement of Foreign Arbitral Award	178
<i>Dr. D.N. Parajuli</i>	
Role of Central Bank: As a Regulator of Banking Business	215
<i>Laxmi Narayan Dhungel</i>	
Socialist Jurisprudence: Withering Way Law and State - Why and How?	225
<i>Kamal Raj Thapa</i>	
Dimension of Aviation Industry: Legal Perspective of Investment, Regulation, Operation and Liability	253
<i>Saroj K Ghimire</i>	

Religion and Constitution of Nepal	264
<i>Dr. Ramesh Parajuli</i>	
The Principle of <i>Non-Refoulement</i> Under the 1951 Convention Relating to the Status of Refugees	272
<i>Rukamane Maharjan</i>	
Laws and Practices on Loan Facilities in Nepal	282
<i>Dr. Newal Chaudhary</i>	
The United Nations Convention on Contracts for the International Sale of Goods and the Nepali Law Governing Sale of Goods	302
<i>Apurba Khatiwada</i>	
Right to a Fair Trial: Concept and its Application	323
<i>Tek Narayan Kunwar</i>	
Protection of Human Rights Under International Criminal Law	341
<i>Kishwor Sapkota</i>	
Principle of <i>Non-Refoulement</i> and Practice in Nepal	351
<i>Hira Bahadur Karki</i>	
The Customary Justice System in Nepal	366
<i>Shankar Limbu</i>	
Money Laundering as an Organized Crime: Issues and Practice	378
<i>Ramhari Nepal</i>	

