

# Exploring the E-Justice in Nepal: *Current Status and Future Prospects*



Working for Non-discrimination and Equality



*Exploring the E-Justice in Nepal:  
Current Status and Future Prospects*

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# Contents

<b>Chapter 1: Introduction</b> .....	1
<b>1.1 Concept of E-justice/digitalization</b> .....	1
<b>1.2 Objective</b> .....	2
<b>1.3 Methodology</b> .....	2
<b>1.3.1 Districts selected for the study</b> .....	4
<b>1.3.2 Time Frame:</b> .....	5
<b>1.3.3 Data Collection:</b> .....	5
<b>1.4 Scope and limitation of the study</b> .....	6
<b>1.5 Research Ethics</b> .....	7
<b>Chapter 2: Literature Review</b> .....	8
<b>2.1 e-Justice: Digital transformation to close the justice gap (UNDP)</b> .....	8
<b>2.2 e-Justice: Towards a strategic use of ICT in Judicial Reform</b> .....	8
<b>2.3 An analytical study on the use of information technology in judiciary, 2012, Supreme Court</b> .....	9
<b>2.4 Study report on the impact of utilization of information technology adopted in the courtroom, in the execution of case-related tasks, 2015</b> .....	9
<b>2.5 Development and use of information technology in the judiciary of South Korea and its utility in Nepal’s judiciary: Summary study report, 2015</b> .....	9
<b>2.6 Virtual Courts: The changing face of Indian Judicial System</b> .....	9
<b>2.7 Descriptive e-Justice Framework to Support Studies at Administration of Justice</b> .....	10
<b>2.8 Risk factors in e-justice information systems</b> .....	11
<b>Chapter 3: Overview of law and policy related to e-justice/digitalization</b> .....	12
<b>3.1 National Laws</b> .....	12
<b>3.1.1 The National Criminal Procedure Code, 2017</b> .....	12
<b>3.1.2 The Criminal Offense (Sentencing and Execution) Act, 2017</b> .....	12
<b>3.1.3 The National Civil Procedure Code, 2017</b> .....	12
<b>3.1.4 The Mutual Legal Assistance Act, 2014</b> .....	13
<b>3.1.5 Prevention of Organized Crime Act, 2013</b> .....	13
<b>3.1.6 Supreme Court Rules, 2017, High Court Rules, 2016, District Court Rules, 2018</b> .....	13
<b>3.1.7 The Infectious Disease Act, 1964</b> .....	14
<b>3.1.8 The Disaster Risk and Management Act, 2017</b> .....	14
<b>3.1.9 The COVID-19 Crisis Management Ordinance</b> .....	14
<b>3.2 Orders and Directives Issued by the CCMC and Government Agencies</b> .....	14
<b>3.3 Guidelines, orders and decision made by the Judiciary</b> .....	15

3.3.1 Directives related to the management of hearing of cases through video conference in court .....	15
3.3.2 Guideline prepared by the Makwanpur District Court regarding virtual hearings ...	16
3.3.3 Fourth Five-year strategic plan of the judiciary .....	16
3.3.4 Long term Master plan of Information Technology:.....	17
3.3.5 Order made by the Supreme Court.....	17
<b>Chapter 4: Practices of e-justice in different countries .....</b>	<b>18</b>
4.1 India .....	18
4.2 Bangladesh.....	18
4.3 The United Kingdom .....	19
4.4 The United States of America .....	19
4.5 Australia.....	19
4.6 South Korea.....	20
4.7 Singapore .....	21
4.8 Malaysia.....	21
4.9 International Criminal Court (ICC) .....	22
<b>Chapter 5: Benefits of e-justice/digitalization .....</b>	<b>23</b>
5.1 Increased service seekers accessibility .....	23
5.2 Enhanced efficiency of justice system .....	23
5.3 Cost reduction .....	23
5.4 Time saving.....	24
5.5 Transparency of judicial processes .....	24
5.6 Easy access to information for service seekers .....	24
5.7 Systematic documentation of cases.....	24
<b>Chapter 6: Barriers/Challenges in using e-justice .....</b>	<b>25</b>
6.1 Lack of access to technology .....	25
6.2 Disclosure of privacy of victim.....	25
6.3 Allocation of limited budget for the judiciary .....	25
6.4 Technically skill gaps.....	26
6.5 Lack of equipment and internet access .....	26
6.6 Reluctance to adopt e-justice systems .....	26
6.7 Issues related to cyber security .....	27
6.8 Lack of a legal framework for e-justice .....	27
6.9 Difficulty in identifying facial expression in video conferences .....	28
<b>Chapter 7: Areas for the expansion of the e-justice system .....</b>	<b>29</b>
7.1 Online case filing system .....	29

<b>7.2 Providing information about the status of case through website/sms</b> .....	29
<b>7.3 Expansion of the custodial time or release of the accused through video conference</b> .....	30
<b>7.4 Conducting the testimony of victim, witness and accused through video conference</b> .....	30
<b>7.5 Taking expert opinion virtually</b> .....	31
<b>7.6 Virtual hearings</b> .....	31
<b>7.7 Providing case decisions to the parties through email</b> .....	32
<b>7.8 Coordination between judicial and security agencies</b> .....	32
<b>7.9 Redundancy and back up</b> .....	32
<b>7.10 User-friendly e-justice system</b> .....	33
<b>Chapter 8: Conclusion and recommendations</b> .....	34
<b>8.1 Conclusion</b> .....	34
<b>8.2 Recommendations</b> .....	34
<b>Bibliography</b> .....	37
<b>Annexes</b> .....	38

# Chapter 1: Introduction

## 1.1 Concept of E-justice/digitalization

E-Justice is a specific field under the more general umbrella of E-Government.<sup>1</sup> E-justice is an emerging technology that has potentiality to revolutionize the way courts and legal systems operate. It is a relatively new concept in the judicial system. It enables more efficient, cost-effective and timely resolution of cases, as well as improved access to justice for all citizens. E-justice can be defined as the use of technology, information and communication to improve access of citizens to justice and effective judicial action, which consists of dispute settlement or the imposition of criminal sanctions.<sup>2</sup> The development of e-justice is a key element in the modernization of judicial systems. Delays in resolving court cases and issuing judicial decisions have a range of adverse consequences. The state's seeming inability to deliver justice promptly and efficiently can cause a lack of confidence in state institutions, undermining the social and political fabric and countries' international standing. The adoption of new technologies has the potential to increase productivity and reduce transaction costs in a system that relies heavily on information. It also has the potential to shorten the duration of procedures, thereby saving both time and money. As a consequence, e-Justice also increases the beneficiaries' confidence and provides greater legitimacy to the judicial power.

The use of Internet technologies in the judicial system can significantly accelerate the processing of cases, benefiting all participants in the field of justice. By simplifying the filing and the control of legal documents, it is easier to monitor pending cases and facilitate the work of the judiciary. As a result, judges can more thoroughly and efficiently handle the cases assigned to them. By integrating automated processes and digital tools into the judicial system, e-justice can help reduce costs, improve case management and increase transparency in court proceedings. Technologies could also lead to a flexible and dynamic litigation process in which some legal documents are sent to parties digitally and certain forms of participation in the judicial procedure can be exercised remotely (testimonials, expertise, legal representation, etc.). E-justice initiatives include the strategies, process (re)engineering, automation, data collection, integration of systems as well as online dispute resolution, e-filing, remote court process and technologies used to digitize, store, and provide access to legal documents and evidence.<sup>3</sup> Furthermore, practitioners and citizens will be able to monitor the course of judicial actions and enforce some of their procedural rights through a one-stop online platform, which will make formal procedures unnecessary and will accelerate the judicial process.

However, E-justice that introduces online methods of engagement, including electronic filing, virtual hearings and online dispute resolution, can create or exacerbate the digital divide by entrenching or exacerbating barriers to quality justice outcomes, particularly for people from

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<sup>1</sup> <https://librereseearchgroup.org/en/a/e-justice>

<sup>2</sup> <http://www.legalsl.com/en/what-is-e-justice-1.htm#:~:text=E-justice%20can%20be%20defined%20as%20the%20use%20of,key%20element%20in%20the%20modernization%20of%20judicial%20systems.>

<sup>3</sup> <https://www.undp.org/publications/e-justice-digital-transformation-close-justice-gap>

vulnerable communities. E-justice initiatives must continue to advocate for access to the devices - telephone, television, personal computers - and to the adequacy and affordability of reliable internet and electricity. Gaps in the digital device reflect social inequities. Women do not have equal access to mobile connectivity nor access to private or independent accounts for accessing legal or financial services.<sup>4</sup> Individuals with physical disabilities may not have the adaptive hardware or software needed to access online services. People at risk of being displaced or trafficked may not have the devices to prove their identity. Seniors face greater isolation as basic services move to unfamiliar digital platforms. Rural communities may not have reliable access to infrastructure.<sup>5</sup>

The COVID-19 pandemic has had a significant impact on the Nepalese judiciary. Throughout the country, all courts provided limited services during the pandemic, resulting in the restriction of court proceedings in all types of cases. The right to justice is a constitutional right<sup>6</sup>, and in order to ensure that there is no infringement of this fundamental right, the judiciary has developed a video conference directive, 2078<sup>7</sup> and conducted virtual hearing in most of the places. Similarly, various forms of digitization in the judiciary have been implemented, such as case management system (CMS) has been used in order to manage the cases, publication of daily and weekly cause lists on the website, details of case processes of the District Court, High Court, Special Court, and Supreme Court can be seen on website, as well as providing precedent, judgments of all courts can be accessed online through website. However, a need of significant change towards e-justice has emerged due to COVID-19 pandemic.

## 1.2 Objective

The main objectives of this study are:

- To map the status of e-justice/digitalization in the justice sector in the context of COVID-19 pandemic
- To explore the opportunities for the use of e-justice/digitalization in the justice sector

## 1.3 Methodology

The study used both primary and secondary sources of data. Various secondary sources, including books, reports, and judicial decisions, were reviewed. To obtain primary sources of data, detailed research guidelines were prepared which contained multiple sets of questionnaires targeted to the different categories of respondents including representatives from the police, the courts, the office of government attorney, the Bar Association, the Legal Aid Committee, the Safe House, CSOs, informal justice actors, and service seekers (woman and marginalized groups) who provided and received service during the COVID 19 pandemic.

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<sup>4</sup> GSMA, The Mobile Gender Gap Report, 2021. Available at: <https://www.gsma.com/r/gender-gap/>

<sup>5</sup> Available at <https://www.undp.org/publications/e-justice-digital-transformation-close-justice-gap>

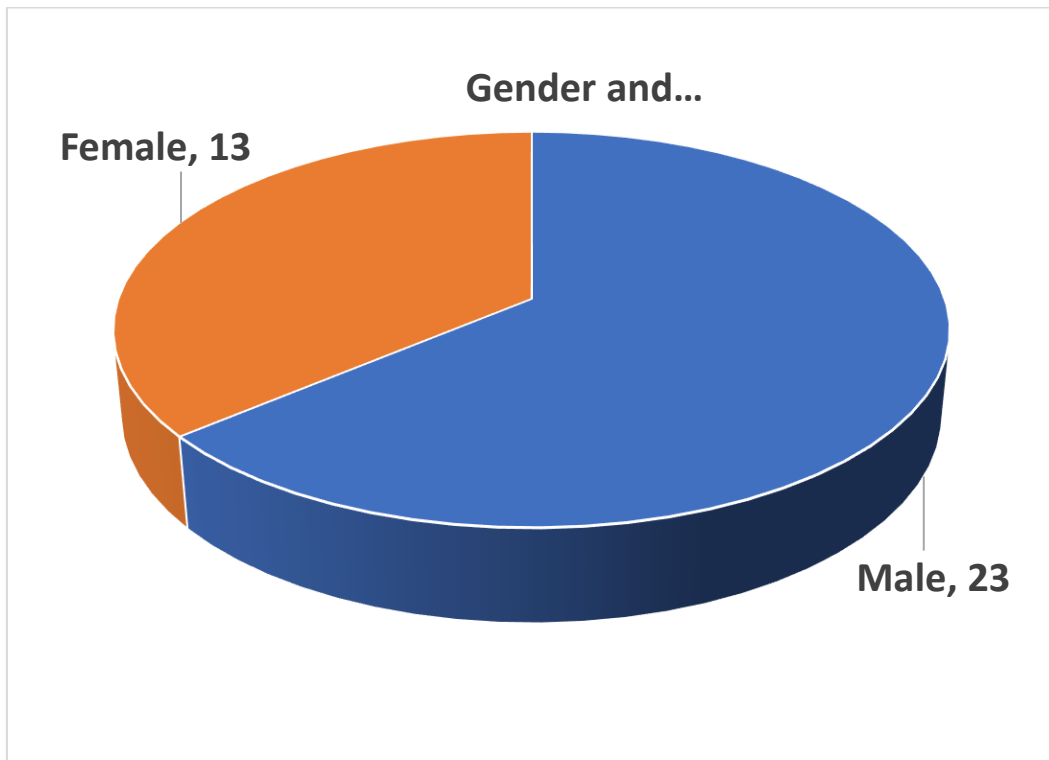
<sup>6</sup> Constitution of Nepal, 2015 Article 20

<sup>7</sup> Available at

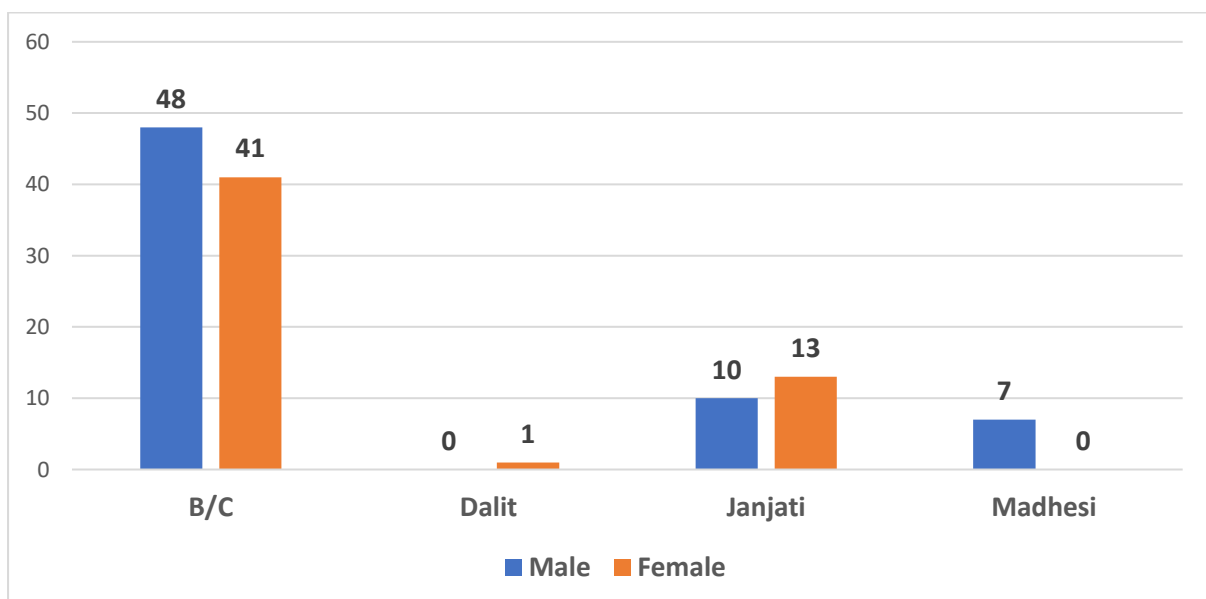
<https://supremecourt.gov.np/web/assets/downloads/latest%20Nirdesika%20video%20conference.pdf>

Additionally, consultation programs, key informant interviews (KII), and dialogue programs were also conducted. Details of the persons consulted are mentioned below:

*Disaggregated data of participants of KII*

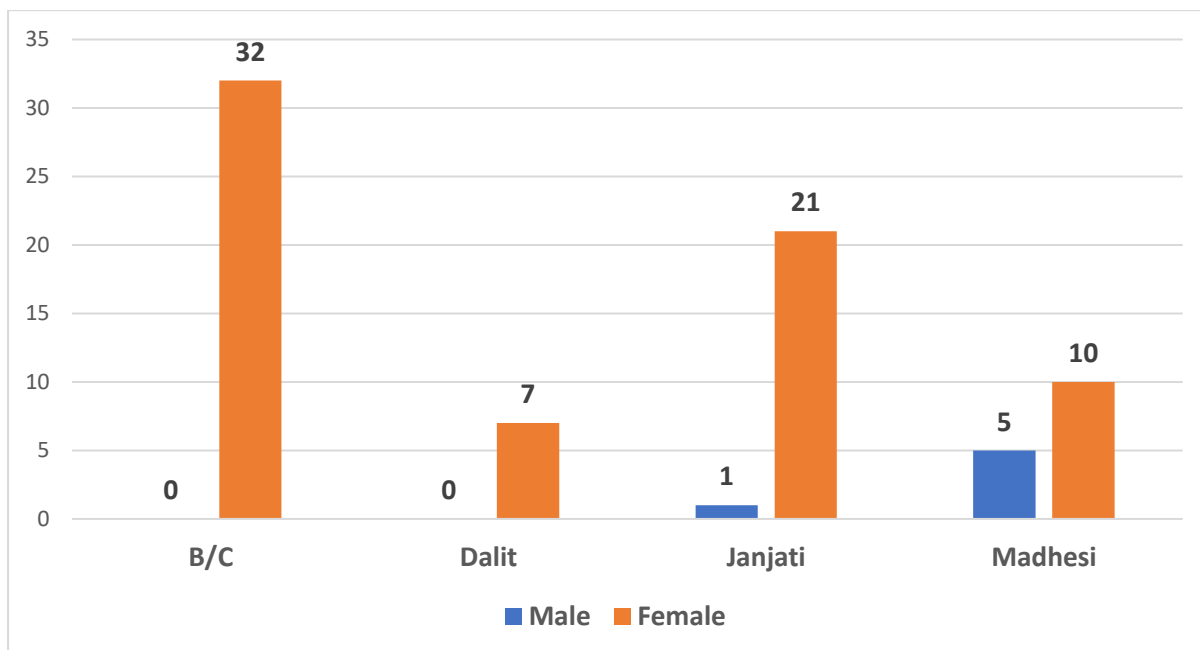


*Disaggregated data of participants of consultation program*





### *Disaggregated data of participants of dialogue program*

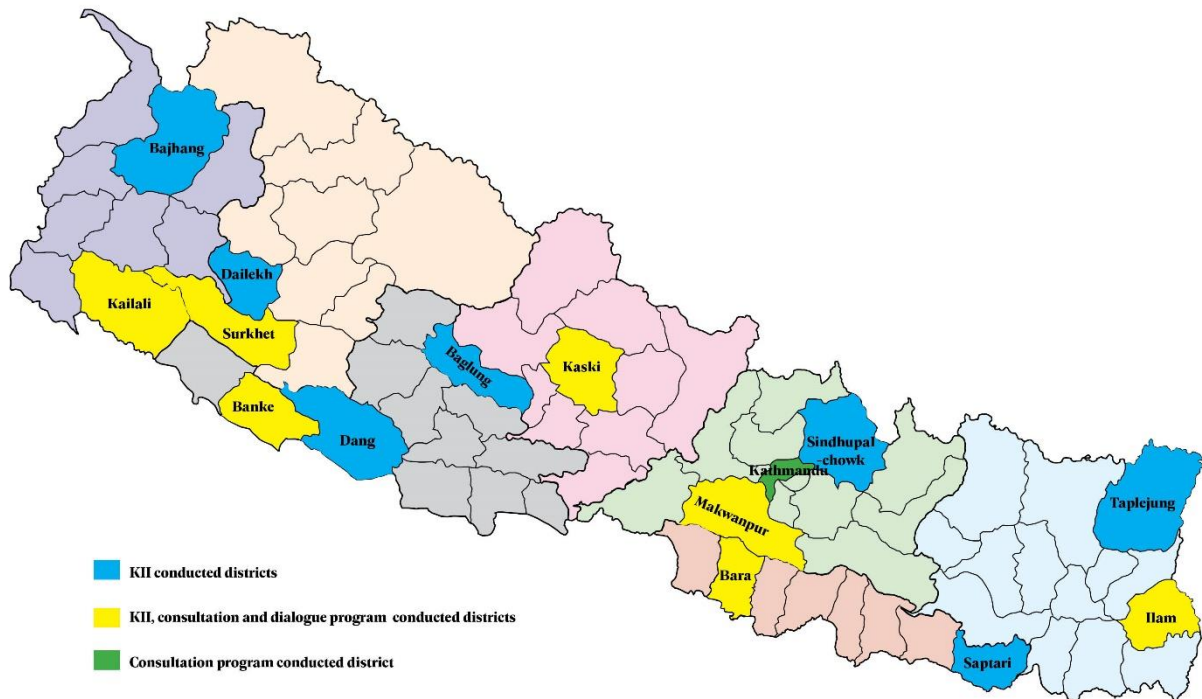


#### **1.3.1 Districts selected for the study**

For the purpose of the study, KII, consultations and dialogue programs were conducted in 7 selected districts<sup>8</sup> representing all the 7 provinces. Additionally, a consultation program with service providers was conducted in Kathmandu at federal level. Further KII were conducted with the representatives of the district court, the office of the district government attorney and district police offices in 7 other different districts<sup>9</sup>. The districts were selected based on their geographical location, the availability of a high court and provincial capital, and their demographic composition.

<sup>8</sup> Ilam, Parsa, Makwanpur, Kaski, Banke, Surkhet and Kailali

<sup>9</sup> Taplejung, Saptari, Sindhupalchok, Baglung, Dang, Dailekh and Baihang



### 1.3.2 Time Frame:

Data collection took place from September, 2022 through February, 2023.

### 1.3.3 Data Collection:

The study team collected quantitative and qualitative data using the research guidelines prepared in consultation with Technical Advisory Committee. Different tools used to gather information are described below:

#### a) Law and Policy Analysis

The study team analyzed existing laws directly or indirectly related to the use of e-justice/digitalization in justice sector including constitutional provisions, judicial interpretations, the national Criminal Procedure Code, Court rules and the COVID-19 crisis management ordinance. The study also analyzed the decisions and orders delivered by the Supreme Court of Nepal regarding use of e-justice to enable access to justice during the COVID-19 pandemic.

#### b) Key Informant interviews<sup>10</sup>

The study team interviewed 36 individuals from 7 districts working in the judicial and security sector to collect their experiences on access to justice during the COVID-19 pandemic and use

<sup>10</sup> Detail of the respondents of KII is given in the Annex

of e-justice system. The interviews focused both on the use and barriers on e-justice and the initiatives taken during the COVID-19 pandemic to strengthen access to justice for women and marginalized group. A further 21 KII were conducted in 7 other districts with officials of court, the office of the district government attorney and the police office.

#### **c) Consultation with service providers<sup>11</sup>**

The study team organized a consultation program with service providers on the use of e-justice system during the COVID-19 pandemic. The consultation program was organized in all seven provinces, and one consultation was conducted at the federal level. The consultation program provided qualitative information on the use of e-justice, its effectiveness and challenges. Additionally, a Focus Group Discussion (FGD) was conducted with lawyers who provided legal support during the COVID-19 pandemic.

#### **d) Dialogue with service seekers<sup>12</sup>**

The study team conducted a dialogue program with service seekers who reached out to different service providers during the COVID-19 pandemic. One dialogue program was conducted in each of the 7 provinces. The dialogue program provided qualitative information on the use of e-justice system from the service seekers' perspectives. Service seekers included women and marginalized community.

#### **e) Secondary sources**

The study used data and statistics published by governmental and non-governmental organizations as secondary sources.

### **1.4 Scope and limitation of the study**

The Nepalese judicial system has been significantly impacted by the COVID-19 pandemic, leading to a need for research to understand the use of e-justice systems and digitalization. For the purposes of this study, the period between 2020 and 2021 is considered as the COVID-19 pandemic period. The study aims to explore the effects of the COVID 19 pandemic on access to justice and use of e-justice tools in order to continue providing effective judicial services. Furthermore, the study examines the current state of the use of the e-justice system, including its benefits and challenges. Although the e-justice system consists of vast processes and procedures, this study focuses specifically on the e-justice system used in Nepal, particularly its case management system and virtual hearings.

To identify the challenges and good practices that arose while using e-justice system during the COVID-19 pandemic, the research team considered KII, dialogues, consultations, field observation, research papers, and reports. Information was collected through KII in two districts of each province, as well as through consultations and dialogue programs with relevant stakeholders in one district of each province and at the federal level. Field observation was conducted in Kailali district where the research team visited District Police Office, District Court, District Government Attorney Office and District Bar Association. Therefore, the

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<sup>11</sup> Detail of the consultation program is given in the Annex

<sup>12</sup> Detail of the dialogue program is given in the Annex

findings of this study are limited to the experiences and practices in these specific locations and may not be representative of all districts in Nepal.

### **1.5 Research Ethics**

The research team has conducted the research in an ethical and responsible manner, with the protection of participants and the integrity of the research considered to be top priorities. The researchers have received informed consent from the participants, who were informed about the research's purpose, procedures, benefits, and were allowed to make an informed decision about whether to participate or not in KII, dialogue and consultation programs. The personal information of the participants has been kept confidential, and their privacy respected throughout the research process. The data was collected, analyzed, and reported in an accurate, transparent and unbiased manner, including by ensuring that data was appropriately recorded, stored, and shared with others. Furthermore, consent was sought from the participants to take their pictures before consultations and dialogue programs were conducted.

## Chapter 2: Literature Review

### **2.1 e: Justice: Digital transformation to close the justice gap (UNDP)<sup>13</sup>**

The UNDP report titled "E-Justice: Digital Transformation to close the Justice Gap" provides a comprehensive literature review on the digital transformation of justice systems. The report highlights that the use of e-justice systems can help address the justice gap and improve access to justice, especially for marginalized and vulnerable populations. The report cites numerous examples of successful e-justice initiatives from around the world, including online dispute resolution, virtual hearings, and digital case management systems. Additionally, the report identifies potential challenges to the adoption of e-justice systems, such as inadequate infrastructure, lack of funding, and concerns about data privacy and security. The report provides valuable insights into the benefits and challenges of e-justice systems, making a strong case for their continued development and implementation

### **2.2 e-Justice: Towards a strategic use of ICT in Judicial Reform<sup>14</sup>**

The paper aims to explore some of the broad challenges that policy makers face in harnessing new technologies in developing countries and taking strategic decisions to make the justice sector more service-oriented and effective. The paper highlights the importance of judicial reforms in Latin America. It emphasizes the need for effective judicial reforms to provide equitable, transparent, and efficient services. The paper explores the multidimensional nature of judicial reform, including legal, organizational, physical, human resources, user access, economic, financial, policy, and ICT perspectives. It highlights the importance of strategic use of ICT in improving access to justice, resource utilization, administration efficiency, and transparency. The insufficient preparation and development of physical and ICT facilities hinder the effectiveness and benefits of reform efforts. The paper suggests several areas that policy makers need to address when introducing appropriate technologies to enhance the performance of the justice system. Such as business sector for overall justice sector governance, operation system for courts, judges and other key professionals and systems that promote user access and linkage and availability of court buildings.

The paper also addresses various challenges and lessons learned from ICT initiatives in judicial reforms, such as disconnect between reform objectives and ICT investments, weak institutional capacities, lack of senior decision-makers' knowledge and commitment, lack of donor coordination, and inadequate stakeholder involvement and training. The paper identifies future opportunities for ICT in judicial reform, including increased policy attention, improving communication infrastructure, rising citizen awareness and internet literacy, and leveraging knowledge from other regions. The paper talks about achieving strategic focuses in harnessing technology for judicial reform is through learning. Judicial institutions are facing the challenge of adapting the technological and communicational advances. Implementing technological change in the justice system requires careful consideration. The paper suggests promoting

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<sup>13</sup> Available at <https://www.undp.org/publications/e-justice-digital-transformation-close-justice-gap>

<sup>14</sup> E-Justice: Towards a strategic use of ICT in Judicial Reform (Waleed H. Malik, The World Bank)

knowledge-sharing networks, organizing e-seminars and workshops, facilitating technical interchange among experts, developing strategic guidelines for ICT Master Plans, and preparing videos on good practices as approaches to achieve a strategic focus in leveraging ICT in justice institutions.

### **2.3 An analytical study on the use of information technology in judiciary, 2012, Supreme Court**

In this study, challenges such as a lack of skilled manpower in the field of information technology, technology-friendliness, insufficient power backup, difficulties in security management, lack of bandwidth and physical resources, service seekers' lack of familiarity with information technology, and the non-permanency of technological staff are mentioned. The study has also made recommendations to develop the data recovery center into backup center and incorporate the video technology in the courtroom.

### **2.4 Study report on the impact of utilization of information technology adopted in the courtroom, in the execution of case-related tasks, 2015**

The report has provided following recommendations.

1. There must be uniformity in the CMS of district and high courts.
2. Improvement in the CMS of high court.
3. Development of the software can be suitable to have the lower courts decision uploaded along with the applications such as appeal of cases and reconsideration of cases.

### **2.5 Development and use of information technology in the judiciary of South Korea and its utility in Nepal's judiciary: Summary study report, 2015**

In South Korea, the establishment of e-courtrooms has connected the proceedings of cases by integrating relevant documents with a projector-equipped computer system. This has allowed parties involved in the case and the general public to observe the hearings from a distance. There is also management of audio video recording and video conferencing.

### **2.6 Virtual Courts: The changing face of Indian Judicial System<sup>15</sup>**

This paper talks about the transition of the Indian judicial system towards virtual courts as a means of access to justice. The rise of COVID-19 pandemic generated the idea of virtual court and delivering justice during global catastrophe. The paper emphasizes on the significance of virtual courts in this era of globalization and digitization. It distinguishes between virtual courts and online courts, highlighting that virtual courts involve electronic submission of documents,

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<sup>15</sup> Available at <https://deliverypdf.ssrn.com/delivery.php?ID=312025116122114112098125000076119120117035019009034090074025115081067084117097068101096034023121015125114118029100079068072081059082053065068065075013004114095065025066040076113000075003000108017088024000029086078099110067111108025068017102124108006000&EXT=pdf&INDEX=TRUE>

video conference hearings, and online judgment delivery, while online courts allow asynchronous participation. The paper emphasizes the advantages of virtual courts, including cost savings, transparency, improved judicial management, and timely adjudication. However, challenges such as infrastructure limitations, data privacy concerns, technical issues, and lack of internet access for some individuals are identified. Notably, around 50% of Indians do not have access to the internet, limiting their ability to participate in virtual court proceedings. Some representatives of the legal profession express concerns that virtual courts may undermine the constitutionality of court proceedings and the importance of the rule of law. Poor audio-video facilities, power outages, and the failure of multiple parties to participate can adversely affect interpreters and vulnerable witnesses. Proposed solutions for the proper management of virtual courts include the development of software, training programs, infrastructure development, data privacy considerations, and technical support. It recommends the development of new software by the Ministries of Law and Justice and IT to support virtual court hearings in India. The paper concludes that India needs to adopt modern technology and emphasizes the importance of a standardized and secure virtual setup to meet the evolving demands of justice delivery.

## **2.7 Descriptive e-Justice Framework to Support Studies at Administration of Justice<sup>16</sup>**

This paper considers the Case Management System as an integrated system that handles judicial cases and allows e-filing, e-payment, e-citation, indexing and calendaring. E-filing enables the plaintiff to digitally submit legal complaints and exchange procedural documents with the parties and courts. Through e-payments and e-billing users can pay court fees online and, e-citation or e-summon is a module that can be used by courts to electronically notify the parties, summoning them to appear before the judges. Courtroom Technologies such as videoconferencing, courtroom records and electronic evidence presentation can be used to facilitate communication and enhance quality of the court records including case management and evidence display. It helps in online hearing and online trials. Legal reciprocity gives access to digital law libraries, legal information retrieval and case law databases, benefitting judges, lawyers, researchers, investigators and students. Electronic monitoring of defendants with GPS-based systems such as ankle monitors can be used as pre-trial detention alternatives, and for probation supervision and rehabilitation of offenders and juveniles. Online Dispute Resolution is a digital process for alternative and traditional judicial dispute resolution that utilizes ICT and provides faster, more cost-effective and flexible dispute resolution. Artificial intelligence application helps in information retrieval, facial and human deception recognition, case values, bail determinations and to assist judges in decision making.

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<sup>16</sup> Available at [https://www.researchgate.net/publication/364360632\\_Descriptive\\_e-Justice\\_Framework\\_to\\_Support\\_Studies\\_at\\_Administration\\_of\\_Justice](https://www.researchgate.net/publication/364360632_Descriptive_e-Justice_Framework_to_Support_Studies_at_Administration_of_Justice)

## **2.8 Risk factors in e-justice information systems<sup>17</sup>**

This paper notes that with the increase of the communication systems' bandwidth and the dissemination of the information systems, the fields of information and communication technology application have expanded in almost all directions. E-government in general and e-justice in particular are no exception and these areas suffered strong changes in the last decades. There is no democracy without a system of swift and transparent justice. Therefore, the introduction of information systems in the courts allows a decrease both in time and number of pending processes, boosting the efficiency of the services provided to citizens and to the society in general. This paper analyzes and discusses different worldwide e-justice experiences. Special emphasis is placed on the risk factors for the design, development and implementation of such systems. The following are some of the risks that may arise when implementing e-justice systems.

- Conflicts among stakeholders may arise from a lack of knowledge about organizational development
- Conflicts among stakeholders may arise from the lack of perspectives on the development of e-governance
- Users involved acquired an ownership (almost paternity like) feeling towards the system
- The introduction of IT in the justice system must also be considered as a risk factor due to cyber attack
- The knowledge gap between the design team and the users may impair the entire system

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<sup>17</sup> Available at <https://www.sciencedirect.com/science/article/pii/S0740624X13000385>



# Chapter 3: Overview of law and policy related to e-justice/digitalization

## 3.1 National Laws

### 3.1.1 The National Criminal Procedure Code, 2017

The Code allows for the provision of the first information of an offence through electronic means.<sup>18</sup> This promotes accessibility for victims who may otherwise be unable to reach the police office due to a disaster, pandemic, security threat, transportation challenge or for any other reasons. Furthermore, the investigating authority may take statements and conduct interrogations by video conference.<sup>19</sup> Witnesses may also be examined through video conference, if they petition the court and the court orders for it.<sup>20</sup> The court even may examine a witness or evidence that is outside of Nepal through video conference.<sup>21</sup> As well, if the party of a case held in detention or imprisonment cannot be produced in the court due to security or physical disability, with the consent of the court a video conference can be arranged.<sup>22</sup> Documents related to cases can also be exchanged through electronic means.<sup>23</sup>

### 3.1.2 The Criminal Offense (Sentencing and Execution) Act, 2017

This Act provides that the sentencing and execution of a criminal offense can be conducted through video conference<sup>24</sup>. If the offender cannot be produced before the court for reasons of security or public interest or the offender refuses to appear before the court, the offender can be produced through video conference.

### 3.1.3 The National Civil Procedure Code, 2017

The Code contains provisions for conducting witness examinations through video conference in situations where the witness is unable to appear in person before the court.<sup>25</sup> This could be due to factors such as advanced age, physical illness, or being located outside the country. Any party involved in the case has the right to submit a petition to the court, providing a valid reason for the examination of the witness through video conference(virtually). Upon review of the petition, the court has the authority to issue an order allowing the witness examination to take place via video conference.

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<sup>18</sup> National criminal procedure code, 2017, section 4

<sup>19</sup> National Criminal procedure code, 2017, section 16

<sup>20</sup> National Criminal procedure code, 2017, section 109

<sup>21</sup> National Criminal procedure code, 2017, section 115(5)

<sup>22</sup> National Criminal procedure code, 2017, section 126(3)

<sup>23</sup> National Criminal procedure code, 2017, section 192

<sup>24</sup> The Criminal offense (Sentencing and Execution) act, 2017, section 10

<sup>25</sup> National civil procedure code, 2017, section 182.

It is important to note that the party requesting the video conference examination is responsible for bearing the expenses associated with it. This ensures that the financial burden of conducting the examination through video conference is allocated to the party that initiated the request.

### **3.1.4 The Mutual Legal Assistance Act, 2014**

The Act is intended to facilitate the execution of mutual legal assistance between Nepal and foreign states in matters of judicial proceedings. The Act provides for the use of video conference while requesting for examination of witness and service of written interrogations.<sup>26</sup> It states that if a witness is unable to appear in the court of a foreign country because of old age or physical illness or to appear in the Court of Nepal because of residing or staying abroad and the Court considers it reasonable to examine such witness through video conferencing, it may make an order for the examination of such witness through video conferencing.

### **3.1.5 Prevention of Organized Crime Act, 2013**

The act has a provision of attending the court proceedings through video conference if the accused of an organized crime cannot be physically present in the court due to security concerns.<sup>27</sup> Also, the court can take the testimonies of informants, complainants or witness through video conference in the cases of organized crime.<sup>28</sup>

### **3.1.6 Supreme Court Rules, 2017, High Court Rules, 2016, District Court Rules, 2018**

The rule has a provision of using information technology while exchanging documents, send and receive notices, summons, complaints, responses, writ application, appeals, written objections, application, etc between court. The court can conduct witness examination and take expert opinion through video conference and such communication must be kept recorded. The work done through the use of information technology shall be deemed to be as per the law.<sup>29</sup> Apart from it, the court can develop website and shall include weekly and daily cause lists, status of case, judgment of the court, template of general nature application format and other relevant materials that are seen necessary by the court.<sup>30</sup>

The court may provide information about the case proceeding to the concerned party via email or mobile in a self-accessible manner. The information may include case registration, hearing date, cause list date, and the court's order, verdict and decision and other relevant information.<sup>31</sup>

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<sup>26</sup> Mutual Legal Assistance Act, 2014 section 11(4)

<sup>27</sup> Prevention of Organized Crime Act, 2013 section 33

<sup>28</sup> Prevention of Organized Crime Act, 2013 section 34

<sup>29</sup> Supreme Court Rules, 2017 rule 124, High Court Rules, 2016, rule 164, District Court Rules, 2018 rule 108

<sup>30</sup> Supreme Court Rules, 2017, rule 125

<sup>31</sup> Supreme Court Rules, 2017, rule 126

### **3.1.7 The Infectious Disease Act, 1964**

The Act addresses any infectious disease which may develop or spread throughout Nepal. It establishes that the Government of Nepal may take necessary action to root out or prevent such diseases, and may issue necessary orders applying to the general public or any groups of persons. The government has primarily used this Act to control the spread of the COVID-19 pandemic.

### **3.1.8 The Disaster Risk and Management Act, 2017**

The Act primarily focuses on the reduction of disaster risks and risk management to protect human lives and public, private and individual properties from natural and unnatural disasters, by effectively coordinating and managing all activities. The definition of unnatural disaster includes epidemic/pandemic diseases.<sup>32</sup>

### **3.1.9 The COVID-19 Crisis Management Ordinance**

The ordinance primarily focuses on management of the health sector. It allows the declaration of a health emergency, under which the government can requisition private properties and vehicles to utilize efforts to stop the spread of the disease. Further, the government can take over the management of private hospitals to treat and manage COVID-19 patients. It also entitles the government to declare a situation of crisis and force lockdowns and impose orders of prohibition. It also authorizes the government to delegate authority to control COVID-19 to the chief district officers. This ordinance was active for a period of 6 months during the pandemic.

## **3.2 Orders and Directives Issued by the CCMC and Government Agencies**

The Government of Nepal formed a high-level committee named the COVID-19 Crisis Management and Coordination Center (CCMC) to work for the prevention and control of the COVID 19 pandemic, under the leadership of the Deputy Prime Minister and the Defense Minister. All of the ministries were members of the committee. The first meeting of the committee was held on March 1, 2020, and the major decision of the meeting was to issue directives regarding international visits and implementation of a health desk at the international airport. The 10<sup>th</sup> meeting of the CCMC, held on March 21, 2020, decided to impose a lockdown starting from March 23, 2020 as per the Infectious Disease Act, 1964.

A press release issued after the Full Court meeting of the Supreme Court of Nepal on March 20, 2022 mentioned that due to increasing number of deaths from infection by COVID-19, all the services of the courts would stop, except those related to individual freedom and emergency services such as hearing of habeas corpus, filing of charge sheets, taking statements and preliminary hearings, arrest warrants, increases of time limits and other emergency services. Also, juveniles would be released from Juvenile reforms house if guardians were present to take custody. This order was initially made for 12 days.

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<sup>32</sup> Disaster Risk and Management Act, 2017, section 2(d)

A press release issued by the Supreme Court of Nepal on March 25, 2022 stated that the order would be continued for a further 8 days, and that applications could be provided online regarding the custody of juveniles. A press release by the Supreme Court of Nepal on May 18, 2021 stated that due to the increasing number of COVID-19 cases, one dedicated bench would be prepared for video conferencing.

Various other press releases were issued by the Supreme Court to continue and discontinue services time and again.

**Furthermore**, as per Rule 13(5) of the Supreme Court Regulations, 1992, the Chief Justice formed an Access to Justice Commission of the Supreme Court. The Commission has eighteen members, including the Chairperson and the representatives of targeted groups, along with officials from the judicial service provider agency. The Commission plays a coordinating role in creating policies and structures to increase access to justice for targeted groups. Targeted groups include children, women, indigenous communities, senior citizens, differently abled people, helpless, socially and economically disadvantaged people and others. The Access to Justice Commission conducted a policy dialogue program during the COVID-19 pandemic to strengthen services.

### **3.3 Guidelines, orders and decision made by the Judiciary**

The COVID-19 pandemic has resulted in an unprecedented situation where social distancing is the new normal. Therefore, courts across the country were compelled to explore technology-driven solutions such as conducting hearings before judges through video conferencing, and minimizing physical interaction as much as possible.

#### **3.3.1 Directives related to the management of hearing of cases through video conference in court**

The Supreme Court of Nepal issued directives to conduct hearings through video conference in 2022. Necessary equipment and internet facility is required to conduct a hearing through video conference. The applicant must provide an email address and a mobile number in the application. If one party files an application for a virtual hearing and the other party denies it, then in such circumstances the applicant can have their hearing through video conference and the other party needs to be physically present in the court for the hearing. During the process of testimony, evaluation of evidence, witness and expert testimony/examination all the concerned parties must be physically present, including legal practitioners and court's technical employee. Certain codes of conduct must be followed during video conferences. Legal practitioners shall be present with the prescribed dress code and the parties must wear appropriate clothes. People participating in the video conference shall be present with their identity cards. The parties must remain online in the video conference until the end of hearing. The microphone must be muted unless needed. Mobile phones must not be used unnecessarily. If any obstruction arises during video conference, the hearing can be continued through tele conference. The code of conduct that is applied in the physical court must be followed in virtual hearing as well.

After the virtual hearing is complete through video conference, the court must give the notice of the order given by the Bench to the concerned parties through email. The court shall produce a user's manual for virtual hearings through video conference and post it on their website or send it to the parties through email. The user's manual must include all the procedures for the video conference. Arrest warrants, acknowledgement of arrest warrant, orders to keep in detention center, restraining orders, testimonies, pleadings and some other activities can be conducted through video conference.

### **3.3.2 Guideline prepared by the Makwanpur District Court regarding virtual hearings**

As per the virtual meeting conducted by Makwanpur District Court with district bar association and government attorneys, it decided to conduct hearing of cases through video conference as an alternative management during COVID 19 pandemic and prepared guideline for it. The virtual hearing of detainees at detention center, juvenile delinquents at juvenile home and prisoners at prison was conducted following the guideline.

There shall be arrangement for different 'messenger id' for every bench and administrative management to operate the virtual service. Legal practitioners or the parties willing to have their trial through online must send the message to the concerned messenger id on the hearing day by 11 am in the morning. The message must include the case number, name of the party and legal practitioner and email address. The court will decide the time for a virtual hearing and reply to the message. Contacting the concerned parties, the court can conduct the hearing and discussion through video conference by using available apps such as Google Meet, Zoom, or Messenger. Trials and hearings through video conference shall be recognized as an alternative to physical trials and court hearings. Whenever possible, arrangements shall be established for exchanging information through email.

### **3.3.3 Fourth Five-year strategic plan of the judiciary<sup>33</sup>**

The fourth five-year strategic plan of the judiciary sets out the following elements of a plan related to the implementation of e-justice.

- Preparing and using digital case files except where original case files are required.
- Conducting a feasibility study on pleading through video conferencing and the implementation thereof in courts.
- Preparing digital copies of the main documents of casefiles and uploading them with the Central Record System through software
- Preparing a digital archive of previous studies and keeping it securely in an e-portal.

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<sup>33</sup> Available at : <https://supremecourt.gov.np/web/assets/downloads/strategic/4th%20strategic%20plan%20of%20judiciary.pdf>

- Providing access to the digital archive of study reports to judicial human resources through an e-portal.
- Preparing a video conference room while expanding the infrastructure of the court

### 3.3.4 Long term Master plan of Information Technology:

The Supreme Court has developed 10 years long IT Master plan in 2015/16. Seven goals of the master plan are as follows:

- Goal 1: To Enhance and Strengthen the System and Networking Infrastructure,
  - Goal 2: To Establish Automated Court Management,
  - Goal 3: To Develop and Implement Office Automation System
  - Goal 4: To Establish Judge Support System
  - Goal 5: To Enhance Public Access through e-Services of Court
  - Goal 6: To Capacitize the Human Resources for sustainable operationalization of the ICT Systems.
  - Goal 7: To develop different policies needed for the effective management
- Midterm review of the master plan was also done by the Supreme Court in 2078/79.

### 3.3.5 Order made by the Supreme Court

The Supreme Court ordered the arrangement of online case registration for cases related to domestic violence. It further issued an order to make the necessary arrangements at the local level to disseminate information through social media.

*Advocate Roshani Paudel vs The Government of Nepal, Secretariat of PM and Council of Ministers, 2020*

#### **Case: Certiorari/Mandamus**

To reduce gender-based violence and ensure access to justice, it is necessary to create a ‘virtual media’ system allowing victims to file complaints and hear cases concerning gender-based violence. It is necessary to make arrangements for online case reporting and online hearings, which will help ensure women access to justice and their safety from gender-based violence. An order of mandamus is issued in name of the GoN to resume and cause to resume the services immediately and uninterruptedly by adopting measures. These measures must include an online case registration system for domestic violence, case hearings, immediate interim relief, victim protection to the victims and a special fund to create a coordination system handling these matters.

An order is issued in name of the GoN to make the necessary arrangements to assist all 753 local governments with setting up helplines or Facebook mechanisms to disseminate information about online services, and take other special measures to rescue and provide relief to women and children affected by gender-based violence during the COVID-19 pandemic.<sup>34</sup>

<sup>34</sup> Writ no. 076-WO-0962

# Chapter 4: Practices of e-justice in different countries

## 4.1 India

The national Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary was developed in 2005 to guide the implementation of e-justice initiatives in India. On 7th August 2013, the Chief Justice of India launched the e-Courts National portal [ecourts.gov.in](http://ecourts.gov.in) of the e Courts Project.

The Supreme Court ensured the effective delivery of justice through a raft of initiatives such as e-courts, online hearings via video conferencing, the standard operating procedure for urgent hearings, live streaming, and e-filing. The e-committee of the Supreme Court of India introduced the concept of virtual courts. In the current scenario, litigants can file the complaint electronically through e-filing. Court fees and fines can also be paid online. For the purpose of adjudication, the litigant may have to appear in person or through the lawyer in the Court. Currently, two categories of cases have been tried in virtual courts.

- Offenses under Motor Vehicle Act (Traffic Challan Case)
- Petty offenses where summons can be issued under section 206

The district courts heard 1,84,95,235 cases and the high courts heard 77,67,596 cases as of 31<sup>st</sup> Jan 2023 using video conferencing only.

In India there are numerous statutes, rules and guidelines that govern e-justice and facilitates the use of technology in justice delivery. Section 65 (A) and (B) of The Indian Evidence Act, 1872 deals with the admissibility of electronic evidences.

The rules governing the e-filing of cases vary from court to court. Every court has set its own guidelines to file cases electronically, which can be found on their official websites. For instance, Delhi High Court has given practice directions for the e-filing of cases. The direction involves procedures for e-filing, digital signature, payment of court fee and so on. E-filing of cases is permissible up to 4 pm. Caveats, all written statements, counter affidavits or reply affidavits, documents, applications in pending matters or in disposed matters, supplementary pleadings documents etc. in pending cases can be filed electronically using e-filing system.

## 4.2 Bangladesh

The President promulgated an ordinance entitled the “Use of Information and Communication Technology by Courts Ordinance, 2020”. The ordinance gave the power to the courts to use information technology for the virtual presence of the parties in trials, inquiries, hearings, testimonies, arguments, orders and judgments. After two months the ordinance was transformed into an Act.

The Act governing e-justice in Bangladesh is “Use of Information Technology by Courts Act, 2020” (*Adalat Kartrik Tottho-Projukti Bebohar Ain, 2020*). The Act was passed on July 9, 2020, for the purpose of ensuring the virtual presence of the parties. Out of 369,732 appeals in the virtual courts and among them 178,520 bails were granted through virtual proceedings.

The Act under section 3 has given ability to conduct judicial proceedings through the use of information technology. The virtual presence of the parties or their lawyers or other concerned persons or witnesses is guaranteed in any trial, inquiry or application, appeal hearing, evidence taking, argument or order. Judgment can also be given using information technology. Audio-video and any other electronic means can be used for virtual appearances. The virtual appearance counts as physical appearance in courts (section 4).

### **4.3 The United Kingdom**

The use of e-justice is governed by a combination of primary legislation, secondary legislation, and rules of court. Section 51 part 8 of The Criminal Justice Act 2003 provides for the use of live audio and video links as a means of facilitating remote participation in court proceedings, subject to certain conditions and safeguards. There must be use of technology in active case management. Live links can be used for the conduct of a pre-trial hearing and for the attendance of a defendant (both those who are and aren't in custody. (Rule 3.2 of The Criminal Procedure Rules 2020)

### **4.4 The United States of America**

Technology has been rapidly adopted to deliver justice in the USA. Many states are implementing e-justice initiatives to improve efficiency and accessibility. The Supreme Court of the USA announced it would hear all the oral arguments by teleconference in response to COVID-19. Documents can be filed electronically and a clerk cannot reject such documents. (Rule 5 of Federal Rules of Civil Procedure). The New York State Courts Electronic Filing (NYSCEF) system allows parties to file and serve documents electronically.

The United States District Court, Southern District, of New York has prepared electronic case filing rules and instructions. It mentions that in civil and miscellaneous cases the filing of the initial papers, including complaints, notices, petitions, etc., the payment of any applicable fees and the request for and issuance of summonses shall be accomplished electronically. Rule 43 of Federal Rules for Civil Procedures states that while taking testimony for good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.

### **4.5 Australia**

The Australian government is committed in implementing e-justice in the country. It is taking various steps to make the justice delivery system more efficient and accessible to the citizens. E-justice in Australia is governed by a range of federal and state laws and regulations.



Part 3 of Uniform Civil Procedure Rules, 2005 of New South Wales (NSW) deals with electronic case management. The Supreme Court of NSW has also provided for the provision of virtual courtrooms. A virtual courtroom is the digital method for court cases to be processed without the need for the participants to attend in person. Parties can be connected to virtual courtroom through video conference and telephone conference.

#### **Evidence (Audio- and Audio-Visual Links) Act 1998 No 105**

Part 1B of this Act provides for the use of audio-visual links within places in NSW for appearances of accused detainees in proceedings in NSW courts. An accused detainee charged with an offence is required to appear before a NSW court in criminal proceedings concerning the offence other than physical appearance proceedings must, unless the court otherwise directs, appear before the court by audio visual link (virtually). The evidence can be given and submissions can be made through the use of an audio-visual link when the court directs. (20A, Part 4 Miscellaneous)

The Act has also mentioned COVID-19 pandemic- special provisions in 22C of Part 4 Miscellaneous which had list out that accused person in any proceeding relating to bail is to be take place by audio visual links (virtually). The appearance of the accused person in any proceeding other than physical proceeding may take place through the use of audio-visual links with the direction of court or where the parties to the proceeding consent. The appearance of a witness or legal practitioner representing a party may take place by way of audio-visual links if the court directs.

Cases can be filed electronically and documents can be send for filing through electronic communication as per Rule 2.23 of Federal Court Rules 2011.

Affidavits and statutory declarations can be filed electronically (975C, Division 4, Part 1, Chapter 22 of Uniform Civil Procedures Act, 1999-Queensland).

#### **4.6 South Korea**

Supreme Court of South Korea has been practicing electronic courtroom. Electronic court aids in effective oral arguments/pleadings. These courtrooms are facilitated with Digital Visual Presenters and DVD Players. E-courtrooms also help in improving transparency and accessibility. Judges, legal practitioners, parties to the case and assistants of courts can look the Stenographic Record typed by Court Reporter in their computer screens. With the permission of judges, the hearings can also be recorded fully or partially. E-trials have been practiced in South Korea since 26 April, 2010.

Electronic Case Filing System (ECFS) helps the parties of the case and their legal practitioners to register and manage their case and have electronic access to the court proceedings and information. Documents related to case and written and electronic evidences can be presented through internet. Petitioners and defendants receive information about any document submitted by other party through email and text message after the case has been registered through ECFS. Since the judges can retrieve electronic case files through central database and can look the case files in monitor present in the courtroom, paperless hearings can also be conducted. To maintain the confidentiality of the case, electronic case files are presented only to the parties

and their legal practitioners. Online Judgement Search Service is in access to general people to get updated about the verdicts given by the judges.

#### **4.7 Singapore**

Usage of information technology is seen in the courtroom of Singapore since very long time. Vision of paperless court was seen after the management of cases were done through computers during 1990s. To have a paperless court or electronic litigation system it is essential to computerize all information of the cases from registration till verdict of the case. The components used by Supreme Court to have an electronic litigation system is found at their website.

Assistive Legal System (ALS) has been installed in all chambers and courtroom. People who have missed hearing can be included in the hearing through the use of Telecoil Hearing Aid. Centralized Display Management System (CDMS) is available at the Supreme Court to provide information of hearing list and routine of other courts. Interactive Queue Management (i-QMS) has helped to manage the queue in the Supreme Court. I-QMS provides information to legal practitioners regarding the time of their case hearing through Display Screen. Digital Transcription System (DTS) allows the Supreme Court to conduct court proceedings through digital audio recording and permits for Real Time Transcription. DTS also helps in the synchronization of final digital audio recording and verdict given by judges. E-signatures facility is available outside every chambers and courtrooms. E-signatures are used in the Supreme Court to remove the need of paper information box. Electronic hearing is also practiced in the Supreme Court of Singapore. Legal practitioners can bring their notebooks and laptops and get access to electronic case file and using the technology they can also plead in their cases. The facility of Mobile Infocom Technology is available in all the chambers and courtrooms. Mobile Audio Visual Technology is available in the courtrooms with no technological facilities. But the courtroom and chamber having technological facilities have video conferencing facility. HD Touch Screen Display and Interactive Display Board are kept in the courtrooms and chambers. Through the use of Skype software legal practitioners can participate in the virtual hearing through video conferencing. Skype software allows the registrar to conduct the hearing of the cases with no disputes. Building of Supreme Court has 5 technological courts where video conferencing is done. Plasma screen and video camera are installed. Legal practitioners can install audio-visual system in their laptop through which evidences can be presented in the monitor or screen.

#### **4.8 Malaysia**

From the beginning of 2011, E-court System has been operating in Malaysia. Usage of information technology such as video conferencing system, case management system, community and advocate portal system, court recording and transcription system and e-filing can be seen in the courtroom of Malaysia.

Video Conferencing System (VCS) used in Malaysia aimed to save RM 2945 per bench of the court. In the cases of rape and case relating to children, witness testimony is also aimed to be

done through VCS. Under Case Management System (CMS), e-filing and e-registration of cases have been started. To do the works of cases registered in the court in a systematic manner, a website named 'Personalized My Page' is being used by judges. The page contains all the relevant information and details related to the case. Queue Management System (QMS) manages the presence of service seekers and legal practitioners. E-filing has been started in Malaysia since March 11, 2011. After the case is registered in the court, the prescribed fee shall be paid through internet banking system. Community and Advocate System (CAS) is a portal system developed to make the communication between court and service seeker easy. Under CAS, Short Messaging System (SMS) has been established. The motive behind usage of CAS is to update service seeker, legal practitioners and judges regarding any changes in the routine. After the usage of Case Recording and Transcribing (CRT) system, judges/ magistrates do not need to write during the time of hearings which saves the time and procedures of the court. Evidences are also protected from being destroyed.

#### **4.9 International Criminal Court (ICC)**

There are three benches in ICC. The situation of the usage of Information Technology can be known by logging in into the website of ICC. The bench uses the Web Streaming Service. The hearings being conducted in ICC is streamed online worldwide after 30 minutes of the actual time. Computer, microphone and headphone are provided to the judges and legal practitioners present in the bench. Cameras are installed in the courtroom for video streaming.

# **Chapter 5: Benefits of e-justice/digitalization**

## **5.1 Increased service seekers accessibility**

E-justice platforms such as website or mobile application provide users with the ability to access justice sector services conveniently and without constraints of time and location. This removes the limitations imposed by traditional office hours, enabling individuals to engage with the justice system at their own convenience. Additionally, it eliminates the necessity for individuals to travel to physical courtrooms or government offices, thereby reducing geographical and physical barriers. This aspect of e-justice is especially advantageous for people living in remote areas, women, individuals with disabilities, marginalized communities or those with restricted mobility.

## **5.2 Enhanced efficiency of justice system**

E-justice enhances efficiency by simplifying procedures and minimizing administrative workload through the automation of diverse tasks. Service seekers have the ability to electronically file legal documents, monitor the progress of their cases, and receive updates, which leads to significant time and effort savings compared to conventional paper-based systems. Much of the work within the justice system can be accomplished through the utilization of computers, eliminating the need for the traditional practice of physically transferring files between various offices. The adoption of e-justice by all justice providers, including the police, courts, government attorneys, and lawyers, has the potential to significantly enhance efficiency and expedite the legal process, ultimately leading to prompter delivery of justice.

## **5.3 Cost reduction**

By replacing traditional justice processes, e-justice has the potential to reduce costs significantly. One of the primary cost-saving factors is the elimination of paper documents, as e-justice platforms digitize and store legal files electronically. This reduces expenses related to printing, photocopying, and physical storage of documents. Moreover, e-justice minimizes the need for manual handling of paperwork, further reducing labor costs. These cost reductions benefit both service seekers, who may experience lower fees or charges, and justice institutions, which can optimize their resource allocation and improve cost-effectiveness. Also, it reduces the cost of travelling to the court and police station.

In Nepal, the expenses incurred by service seekers have surged significantly, and one of the primary contributors to this increase is related to travel costs. Notably, the High Court is situated at a distant location, necessitating the parties involved in a case and their respective lawyers to undertake travel for attendance and pleadings. However, by introducing an online system, the need for physical travel would be eliminated, leading to a reduction in costs for all parties involved.

## **5.4 Time saving**

E-justice improves efficiency by streamlining processes and automating various tasks, thereby reducing administrative burdens. Service seekers can conveniently file legal documents, track the progress of their cases, and receive updates electronically. This electronic approach saves considerable time and effort compared to traditional paper-based systems. By eliminating the need for physical document handling and manual tracking, e-justice simplifies and accelerates the overall process, providing service seekers with a more efficient and user-friendly experience. Moreover, the implementation of an online system not only reduces costs but also saves valuable time for the parties involved in the case and their associated lawyers. By leveraging video conferencing technology, experts such as doctors can conveniently provide their opinions from their respective workstations, eliminating the need for physical presence. This time-saving measure is particularly beneficial for police officials who would otherwise have to travel to present the accused in court, thereby saving precious time, financial resources, and other logistical efforts.

## **5.5 Transparency of judicial processes**

E-justice platforms frequently offer transparent access to information, enabling service seekers to retrieve comprehensive details about their cases, legal procedures, and court decisions. This increased transparency plays a vital role in fostering trust within the justice system. By providing easy access to relevant information, e-justice promotes a better understanding of the processes and outcomes, allowing service seekers to stay informed and engaged.

## **5.6 Easy access to information for service seekers**

E-justice platforms can provide access to legal resources, guidelines, and relevant laws, empowering service seekers to educate themselves about their rights and obligations. This enables them to make informed decisions and better navigate the legal process. It further provides information about dates of hearings, dates for being present in court, status of the cases, and orders and decisions made by the court. It creates a bond between judiciary and service seekers and can help to further strengthen it.

## **5.7 Systematic documentation of cases**

Systematic documentation within an e-justice framework involves the meticulous recording and upkeep of comprehensive and well-structured records relating to legal cases. This process encompasses the electronic storage and proficient management of case-related data, encompassing court submissions, pleadings, evidence, verdicts, and pertinent documents. For this purpose, the court establishes guidelines, procedures, and protocols for the maintenance of electronic case records. E-justice systems facilitate seamless collaboration among multiple stakeholders involved in a case. Public prosecutors, lawyers, service seekers, and other authorized parties can get access to case documents in real-time, improving communication and coordination.

# Chapter 6: Barriers/Challenges in using e-justice

## 6.1 Lack of access to technology

According to the data released by the Central Bureau of Statistics (CBS) for the National Census 2021, 37.8 percent of Nepali households have internet access. That means 25 lakhs, 14 thousand, and 510 households have broadband penetration across the country. The data shows that 73 percent of Nepali households have at least some forms of smartphone penetration. That is out of the total 66 lakhs, 60 thousand, 841 households in Nepal (Census 2021), 48 lakhs, 76 thousand, and 561 households have mobile phone access. That also means 26.8 percent population has no phone access which stands at 17 lakhs, 84 thousand, and 280 households.<sup>35</sup> Nevertheless, individuals residing in remote areas, economically disadvantaged individuals, and marginalized communities still lack access to technology. Furthermore, technology remains primarily concentrated in urban areas, with limited availability of reliable internet in rural regions. This situation exacerbates the digital divide and creates a disparity between individuals in accessing e-justice-related services

## 6.2 Disclosure of privacy of victim

The law explicitly emphasizes the protection of privacy, as the right to privacy<sup>36</sup> is a fundamental right. The Privacy Act, 2018 provides comprehensive details regarding the right to privacy. Similarly, the Crime Victim Protection Act, 2018 specifically addresses the privacy rights of crime victims. In cases involving children and instances of sexual and gender-based violence, it is essential to conduct hearings in camera, ensuring utmost privacy. In such proceedings, only the parties involved, their lawyers, witnesses, and individuals authorized by the court may attend. However, in virtual hearings, it becomes challenging to monitor the presence of individuals in a lawyer's room. This poses a risk to privacy and potentially undermines the dignity of the victim. Therefore, it is crucial to develop strict guidelines and a code of conduct to prevent the misuse of virtual hearings and safeguard privacy effectively.

## 6.3 Allocation of limited budget for the judiciary

One of the primary challenges in implementing e-justice is the availability of an adequate budget for the judiciary. The judiciary receives less than 1% of the total national budget allocation from the Finance Ministry. This limited budget makes it challenging to adequately manage resources for the full-fledged implementation of an e-justice system. There is a need for the allocation of a separate budget for the preparation of technology equipped hearing rooms with screens, cameras, microphones and CCTV.

The district government attorney of the Office of District Government Attorney Makwanpur has highlighted that their office faces challenges in implementing the e-justice system. They cite poor infrastructure and limited resources as the primary reasons for their inability to adopt

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<sup>35</sup> Available at <https://www.nepalitelecom.com/national-census-2078-internet-phone-access-nepal>

<sup>36</sup> Constitution of Nepal, 2015, Article 28

the system. This implies that for the successful implementation of the e-justice system, all related offices such as police stations, courts, government attorney offices, and lawyers should possess the necessary capabilities and resources to introduce and effectively utilize the e-justice system. In addition, it is crucial for service seekers to possess the necessary knowledge and resources to effectively engage with the e-justice system.

#### **6.4 Technically skill gaps**

The advancements in science and technology are experiencing exponential growth, leading to rapid transformations of various systems. Just a few years ago, all documents submitted to a court were handwritten, but they have now been replaced by computer-typed documents. However, this systemic transformation has created challenges for staff and lawyers in adapting to document typing.

Based on the Key Informant Interviews (KIIs) conducted in 14 districts, one common feedback received was the lack of technical expertise among staff members to effectively implement the e-justice system. The availability of technical personnel is limited, highlighting the need for specific training for staff in police offices, courts, attorney offices, and among lawyers.

During field observations, the Vice-President of the Kailali District Court Bar Association noted that virtual hearings are available in the High Court Dipayal, and the district bar in Kailali has managed to set up screens for this purpose. However, lawyers lack technical proficiency to independently operate the virtual hearing system. The staff of the bar association is responsible for managing and connecting to virtual hearings on behalf of the lawyers.

#### **6.5 Lack of equipment and internet access**

The ratio of computers to staff is unbalanced in court, with a ratio of 3:1, meaning that three staff members have to share a single computer. There is lack of other equipment such as printers, scanners and cameras.<sup>37</sup> The majority of feedback received from the Key Informant Interviews (KIIs) highlights a significant challenge in implementing the e-justice system: insufficient technical equipment. The existing equipment is also in need of maintenance, further hindering the smooth implementation of the system. Additionally, while there may be internet availability, the speed is reported to be slow. This poses a considerable challenge, particularly for virtual hearings, where a stable and fast internet connection is crucial. Furthermore, the frequent power outages add to the difficulties faced in implementing e-justice, as they disrupt the continuity of virtual hearing. Therefore, power backup not only in the court, but other agencies and lawyer's office is must. These infrastructure limitations need to be addressed to ensure a more effective and seamless e-justice system implementation.

#### **6.6 Reluctance to adopt e-justice systems**

Resistance to change and the preference for traditional methods play a role in the reluctance to adopt e-justice. Legal professionals and court personnel, may be accustomed to conventional processes and have established routines. The shift to an electronic system requires adjustments

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<sup>37</sup> From the presentation made by Hon. Anil Kumar Sinha on April 7, 2023 at Nepal Bar Association.

in workflows, practices, and mindsets, which can be met with resistance due to ingrained habits and a preference for traditional approaches. Another significant factor is the technological challenges associated with the e-justice system. The introduction of new technologies and digital platforms requires individuals to adapt to unfamiliar processes and tools. Some individuals may exhibit resistance to change or lack the necessary digital literacy skills to effectively navigate the system. This lack of familiarity and discomfort with new technologies can create a sense of uncertainty and hinder the adoption of e-justice.

## **6.7 Issues related to cyber security**

Cyber security is a serious challenge. Given the sensitive and confidential nature of legal information, any weaknesses in cybersecurity can lead to significant risks. Data breaches, malware and ransomware attacks, phishing attempts, and hacking incidents are all potential threats that can compromise the integrity and security of judicial data. As an example, a recent incident involved the loss of data for 400,000 applicants by the Public Service Commission due to a software crash.<sup>38</sup> Such incidents highlight the need for robust cybersecurity measures to be in place.

Implementing strong firewalls and advanced security protocols is crucial to protect against cyberattacks. In addition to preventive measures, it is essential to have a separate backup system in place to ensure the preservation and security of the information and data within the judiciary. Nepalese judiciary has kept its data in its own data center at the Supreme Court of Nepal. Back up data has been kept in Nepal government's backup center in Hetauda. Even if there are data center and backup center in place, need to strengthen and upgradation of these centers for ensuring 100% data secured.

## **6.8 Lack of a legal framework for e-justice**

There is a lack of specific legislation to govern the e-justice system in Nepal. While various laws mention the use of e-justice for specific purposes such as witness statements, video conferencing for extending time limitations for accused individuals in custody, statements of parties, accused, and experts, as well as virtual hearings, there is no dedicated law addressing the comprehensive implementation of e-justice. Currently, the e-justice system is guided by guidelines introduced by the Supreme Court of Nepal.

Moreover, the existing laws governing local judicial committees do not anticipate the utilization of e-justice methods for activities such as filing applications, providing time for written responses, and conducting hearings. Therefore, it is necessary to introduce new legislation that specifically addresses the implementation of e-justice. Additionally, the availability of physical infrastructure and the development of skills among judicial personnel, along with raising awareness about the benefits and usage of e-justice, should be prioritized.

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<sup>38</sup> Available at <https://techmandu.com/about-4-lakh-psc-loksewa-ayog-data-lost/>



## **6.9 Difficulty in identifying facial expression in video conferences**

One of the major concerns raised by participants in consultation programs is that video conferencing in the e-justice system may limit the examination of the accused's facial expression. When the accused is presented before the court for matters such as extension of time limitations for custody or recording statements, it becomes challenging to determine whether the accused is appearing willingly or is under external pressure. A similar issue may arise when recording statements of victims and witnesses. They might be surrounded by opposing parties who could influence and manipulate their statements according to their own interests. These circumstances pose obstacles to ensuring fair justice.

To address these concerns and safeguard the integrity of the justice system, proper guidelines need to be established. It is essential to have the presence of a neutral party or a person associated with the individual recording the statement. This would help ensure that statements are taken in a fair and unbiased manner, minimizing the potential for external pressures or undue influence. Safeguarding fair justice requires careful consideration of these factors and the establishment of procedures that prioritize transparency and the integrity of the judicial process.

# Chapter 7: Areas for the expansion of the e-justice system

## 7.1 Online case filing system

The online case filing system enables applicants to submit their applications through online means, such as email or dedicated applications. This innovative approach reduces the costs associated with physically visiting offices and carrying physical documents, while also saving time for both service providers and service seekers. As part of this digital transformation, the Nepal Police have developed an application called "Nepal Police",<sup>39</sup> through which individuals can file e-complaints. Additionally, the Kathmandu Metropolitan City is currently in the development phase of a mobile application called "IJLAAS," which will allow complaints to be filed with the judicial committee. It is advisable for courts to undertake similar initiatives, enabling applicants to file cases without physically visiting the court premises. In fact, the Supreme Court of Nepal issued an order during the COVID-19 pandemic, urging the implementation of an online case registration system specifically for cases related to domestic violence.<sup>40</sup> Along with it, the government should also manage an online payment system for the payment of registration or court fees in the court so that service seekers do not have to travel to the payment counter.

## 7.2 Providing information about the status of case through website/sms

The courts should develop a system that allows applicants to access information regarding the status and detail documents of their case through a court's website or information on date of hearing via SMS notifications. Although the Supreme Court currently publishes weekly and daily cause lists of all the courts on its website, providing accumulated case information, issued orders, status updates, and access to relevant documents through a user ID would significantly enhance the connection between the parties involved and the courts. By implementing such a system, parties would remain informed about the progress of their cases. Simultaneously, it would enable the court to efficiently manage and access case-related information and documents, thereby reducing the burden of collecting physical documents and increasing overall court efficiency.

The Office of the Government Attorney has implemented a program called "Hello Sachchi" whereby they notify the parties about the scheduled date of the hearing via telephone, one day prior to the hearing. This proactive approach ensures that the state parties are informed and present at the upcoming hearing.

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<sup>39</sup> <https://play.google.com/store/apps/details?id=com.pathway.nepalpolice>

<sup>40</sup> Advocate Roshani Paudel Vs The Government of Nepal, Secretariat of PM and Council of Ministers

### **7.3 Expansion of the custodial time or release of the accused through video conference**

During the COVID-19 pandemic, some courts implemented an online practice of conducting video conferences to decide on the extension of custodial time or the release of the accused. One such example could be observed in the Makwanpur District, where the police, court, and government attorney were connected via video conference to make decisions. Similar initiatives were carried out in other district courts based on the availability of resources. However, as the situation returned to normal, the procedure reverted back to traditional practices, and the use of video conferences was discontinued. Despite the positive feedback from officials of the court, police offices, and government attorneys advocating for the resumption of video conferences, it has not been effectively implemented in practice. By eliminating the need to physically transport the accused to and from the court, valuable time and resources can be allocated to other important areas. This practice proves to be particularly economical and effective in regions like Ilam, where the accused may have to be brought to court on foot, or in Makwanpur district, where the prison is located 28 kilometers away from the court. Implementing video conferences in such cases would not only enhance cost-effectiveness but also improves overall efficiency.

### **7.4 Conducting the testimony of victim, witness and accused through video conference**

Although the Supreme Court issued directives during the COVID 19 pandemic stating that the testimony of victims, witnesses, and the accused can be conducted through video conference, this practice is not effectively implemented. During the visits to various districts, only the Ilam District Court and the Kaski District Court mentioned the use of online testimony during the COVID-19 pandemic. However, currently, this practice is not in place. Conducting testimonies online has several advantages, including reducing the risk of security threats and addressing concerns related to hostage situations. Implementing this practice would not only ensure the safety of individuals involved but also enhance the efficiency and effectiveness of the judicial process. It would also be time and cost efficient for both service seekers and government. Establishing video conference rooms within the court premises and ensuring that court staff are adequately trained to operate them can help save the costs associated with providing transportation for government witnesses by the Office of the Government Attorney through the police office. However, challenges remain regarding the capacity of victims, witnesses, and the accused to effectively use digital devices. It is important to consider whether they have the necessary skills and access to technology to participate in video conferences. Efforts should be made to provide support and assistance to ensure that all parties can fully engage in the digital process and have their testimonies heard without facing technological barriers.

## 7.5 Taking expert opinion virtually

Due to restricted physical movement and the fear of COVID-19 transmission, virtual mediums were used to record expert opinions. This practice was solely based on the need at the time and is rarely practiced currently. In criminal cases, doctors are often required to appear in court to verify medical examination reports. However, due to their frequent transfers and primary duty of treating patients, it was inconvenient for them to travel. Apart from doctors, other experts associated in the case can also provide expert opinion virtually. Thus, virtual mediums were employed to gather expert opinions, saving both time and money. This practice should be used in courts all over the country.

## 7.6 Virtual hearings

During the COVID-19 pandemic, the Makwanpur District Court took the initiative to prepare guidelines for virtual hearings through video conferences, which marked the first step towards adopting this practice. Subsequently, the Supreme Court also issued Directives for conducting virtual hearings. Many courts utilized virtual hearings to varying degrees depending on the availability of resources and technical expertise during the pandemic. However, since then, several courts have discontinued this service.

Currently, the practice of virtual hearings is still in place in the High Court Dipayal, Hetauda Bench and High Court Tulsipur. These courts offer the option of both physical presence and virtual participation, depending on the preference of the parties involved. A hybrid model can also be implemented, allowing parties who wish to attend physically to do so while enabling others to join via video conference. This approach significantly saves time and reduces the travel costs for the parties involved, enhancing convenience and accessibility.

Geographical location	Virtual hearing during COVID 19 pandemic
High court Dipayal	Virtual hearing and virtual statement
Nepalgunj Bench, High court Tulsipur	Virtual hearing
Dang district court	Virtual hearing
Ilam district court	Virtual hearing, taking statement of detainees virtually
Makwanpur district court	Virtual hearing
Hetauda Bench, High court Patan	Virtual hearing
Kaski district court	Statement taken through video conference, date extended, preliminary hearing conducted virtually

## **7.7 Providing case decisions to the parties through email**

One of the major problems faced by the parties is obtaining an authorized copy of the decision of the case. Currently, the parties of the case must be physically present in the court to receive the authorized copy of the decision. For instance, if the case of a resident of Ilam is decided in Supreme Court, that person should be present in the Supreme Court to receive the decision for implementation. In order to abolish this type of barriers, the Supreme Court has initiated to digitize the record files of the courts. Digital documents should be uploaded in the case management system (CMS) by any court of Nepal can be accessible throughout Nepal. These documents are available only in intranet, so the service seeker has to go to their nearest court and get attested copies of their documents.

## **7.8 Coordination between judicial and security agencies**

To successfully implement an e-justice system, it is crucial to establish effective coordination between judicial and security agencies. The work carried out by these agencies is closely intertwined, and without proper coordination, the implementation of an e-justice system would be challenging. It is essential to develop specific guidelines that both judicial and security agencies can adhere to, ensuring smooth collaboration and cooperation.

The Government of Nepal can take the initiative to build a dedicated application for video conferences, which can be utilized by all institutions involved in the judicial process. This centralized application would streamline the operations of handling cases and conducting virtual hearings. By providing a unified platform, it would facilitate efficient communication and coordination among the various stakeholders, leading to enhanced effectiveness and productivity in the e-justice system.

## **7.9 Redundancy and back up**

While online systems and digitalization offer numerous benefits, it is important to acknowledge the potential threats of cyber-attacks and tampering of documents and evidence. To mitigate these risks, it is crucial to establish proper redundancy and backup systems. The Supreme Court has already taken steps in this direction by setting up a disaster recovery system in Hetauda. Additionally, they have implemented a four-layer protection firewall for web applications to safeguard against cyber-attacks. These measures demonstrate the Court's commitment to protecting sensitive and crucial documents.

The government should prioritize the protection of data from cyber-attacks, considering the sensitivity and importance of the documents involved. Establishing robust backup systems ensures that data can be recovered in case of loss or damage to the primary system. Attention to these aspects will strengthen the overall security and reliability of the online systems and digital platforms used in the justice system.

## **7.10 User-friendly e-justice system**

Ensuring accessibility is crucial to the success of the e-justice system, as it directly impacts the effectiveness of planning and investment. To achieve this, it is imperative that the system is designed to be user-friendly. Service seekers should be able to access the information they need easily and efficiently. The system should feature a simple and intuitive design, presenting information in a clear and concise manner. Moreover, it must be accessible to individuals with visual impairments, hearing impairments, and other disabilities, and adhere to relevant accessibility standards. To facilitate user adoption and proficiency, comprehensive training materials, user guides, and tutorials should be provided. These resources will assist users in navigating and utilizing the system effectively. Additionally, offering user support channels such as helplines, chatbots, or online support centers will help address any queries or issues users may encounter, further enhancing accessibility.

Furthermore, incorporating multi-lingual features into the system is essential to ensure that people from diverse communities and castes can access and benefit from its services. This will promote inclusivity and cater to the linguistic needs of a wider user base, facilitating equal access to justice. By focusing on user-friendly design, comprehensive training and support, accessibility features, and multi-lingual capabilities, the e-justice system can successfully address the needs of its users, ensuring equitable access and efficient service delivery.

# Chapter 8: Conclusion and recommendations

## 8.1 Conclusion

Digitization has changed, and will continue to change, the judicial system and judicial processes. It is of paramount importance that courts begin to understand the possible consequences of electronic processes on judicial quality and the administration of justice. The legal framework in Nepal, encompassing laws such as the National Criminal Procedure Code, 2017, National Civil Procedure Code, 2017, The Criminal Offense (Sentencing and Execution) Act, 2017, and Mutual Legal Assistance Act, 2014, have already recognized the potential of an e-justice system. These laws incorporate provisions for video conferencing, and taking statements, and testimonials through video conferences. However, the implementation of these provisions has been limited.

The COVID-19 pandemic has had a significant impact on the judiciary, necessitating the use of online systems. The Supreme Court's guidelines have paved the way for the adoption of digital technology in the judiciary. However, the utilization of online systems has been dependent on the availability of resources and technical expertise, leading to varying degrees of implementation across different courts. Notably, some initiatives taken during the pandemic by concerned officials have facilitated the transition to online/digital procedures, breaking down physical barriers and improving access to justice.

Despite the potential benefits of e-justice, there is still hesitation among some individuals who prefer traditional approaches due to fear of change. However, considering the backlog of cases, limited resources, a shortage of human resources and judges, and geographical remoteness, transitioning to an online system becomes imperative. The e-justice system can offer cost-effective solutions, making justice more accessible for all parties involved.

To ensure speedy and accessible justice, the government should actively consider transforming its mechanisms towards an e-justice system. This would involve developing the necessary physical infrastructure, establishing dedicated sections, introduction of application/website and drafting laws to streamline the process. By involving all relevant justice and security agencies, a cohesive and efficient e-justice system can be established, meeting the needs of the evolving justice landscape.

## 8.2 Recommendations

Based on the study, the following recommendations can be made to introduce a robust e-justice system and facilitate the digitalization of the justice system:

### *Legal and policy level:*

- A comprehensive law should be drafted to facilitate the implementation of an e-justice system in the judiciary. This law should include provisions that cover the entire spectrum of the judicial process, from online case registration to the implementation of decisions.

- The roles and responsibilities of all stakeholders involved in the e-justice system, including the court, police, government attorney, lawyers and parties of the cases.
- It would be useful to introduce a hybrid model of case management and Bench management, so that for the non-professional parties to proceeding, the non-electronic way must be maintained. Professionals, however, should be obliged to work digitally.
- There should be a system in place for parties to obtain authorized copies of court decisions from the court according to their convenience. The parties should not be required to travel to the High Court or Supreme Court to receive the authorized copy of the decision.
- The determination of the extension of custody or release dates should be conducted through video conference. To ensure the accused's free consent, their legal representatives should be present alongside them during the video conference. By utilizing video conferencing technology, the judicial process becomes more efficient and accessible, allowing for remote participation and reducing the need for physical transportation to the court for such proceedings.
- There should be provisions in place to facilitate the collection of expert opinions by virtual means. Experts should not be inconvenienced by having to interrupt their regular work, and travel, and wait in order to provide their opinions. Instead, virtual platforms should be utilized to enable experts to provide their opinions remotely. This would not only save time and resources for both the experts and the justice system, but would also be for a more efficient and convenient process for obtaining expert opinions.
- The statements of witnesses and parties involved in a case should be obtained through virtual means. It is important to ensure that proper protocols are in place to maintain the integrity and reliability of virtual testimonies, such as verifying identities and ensuring secure communication channels. Overall, virtual statement-taking enhances convenience, reduces logistical challenges, and promotes the timely progression of legal proceedings.

***Financial and technical:***

- The physical infrastructure of the offices should be enhanced to support the implementation of an e-justice system. This involves addressing the issue of outdated buildings lacking proper facilities. Specifically, there should be a dedicated section within the offices to handle the operations of the e-justice system. Additionally, a separate room should be designated specifically for virtual hearings, equipped with the necessary technology and equipment to facilitate seamless online proceedings.
- There is still a lack of equipment such as computers, screens, microphones, CCTV in the courts, police offices, government attorney offices and bar associations. The effective utilization of an e-justice system is contingent upon the proper management of this essential equipment. Adequate measures should be taken to procure, install, and maintain the necessary equipment to ensure the successful implementation of the e-justice system in these institutions.
- To conduct hearings with the use of courtroom technology and audio video conferencing it is necessary to have internet bandwidth of high quality. For this while purchasing internet



as suggested by technical person using minimum bandwidth for continuous use should be ensured.

***Coordination and Cooperation:***

- There should be efficient coordination and cooperation among the court, government attorney, police, and lawyers, as these institutions are crucial for the successful implementation of an e-justice system. It is essential for these entities to work together seamlessly, exchanging information, collaborating on case management, and ensuring the smooth flow of legal proceedings.

***Management of human resource and training:***

- It is essential to provide comprehensive training to human resources within the judiciary, enabling them to enhance their technical knowledge and skills in utilizing the system. This training should focus on familiarizing judges, lawyers, court staff, and relevant personnel with the functionalities and processes of the e-justice system.
- User's guides and manuals should be developed to facilitate the use of the e-justice system without difficulty or confusion. These resources should be comprehensive, providing clear instructions and explanations on how to navigate and utilize the system effectively. User's guides should be accessible to all individuals, including those with disabilities, by incorporating features that accommodate different accessibility needs such as visual impairments, hearing impairments, or cognitive disabilities. Furthermore, it is important to ensure that user's guides are available in multiple languages to cater to the diverse linguistic backgrounds of users.
- Orientation and awareness programs should be conducted to promote the use of the e-justice system. It is crucial to raise awareness among the general population, legal professionals, and relevant stakeholders about the implementation and benefits of the e-justice system. These programs can include seminars, workshops, training sessions, and information campaigns aimed at educating individuals about the functionalities and advantages of the system. By increasing awareness, people will be more inclined to utilize the e-justice system, leading to its wider adoption and the engagement of a larger population.

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## Annexes

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**Consultation Program with Service Provider on Access to Justice of Women and Marginalized Community and Use Of E-Justice System During Covid 19 Pandemic**

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Jayanti Giri	Women development officer	Ministry of Social Development, Sudurpaschim Province
Khadak Singh Kunjeda	DSMC	DSMC
<b>Location: Surkhet, Surkhet District</b> <b>Date: 4<sup>th</sup> December, 2022</b>		
Janak Bahadur Rawal	Ward President	Ward No. 6, Birendranagar Municipality
Rajendra Bharati	Member/Lawyer	Surkhet High Court Bar Association
Moti Prasad Devkota	Section Officer	District Court Surkhet
Ram Kumari Thapa	Former Member of Judicial Committee	Justice Committee, Birendranagar Municipality
Sister Roshita	Manager	Nawajyoti Kendra
Juna Ghartimagar		District Police Officer, Surkhet
Kalpana Thapa	Nurse	Province Hospital, OCMC
Chandra Bahadur Khatri	Assistant District Government Attorney	District Government Attorney Office, Surkhet
Man Bahadur Sinjali	Lawyer	Surkhet High Court Bar Association
Pariskrit Poudel	Officer	INSEC
Man Bahadur Karki	Officer	NHRC
Anita Gyawali	Women development officer	Ministry of social development, Karnali Province
Dipen Subedi		
Gyan Prasad Bhusal	Joint Government Attorney	High Government Attorney Office, Surkhet
Tulasi Giri	Activist	Human Rights
<b>Location: Birgunj, Parsa District</b> <b>Date: 26<sup>th</sup> December, 2022</b>		
Gita Timalsina	Officer	Janakpur High Court, Birgunj Bench
Nandkala Tamala	N/A	District Police Office
Goma K. Paudel	Officer	Maiti Nepal, Birgunj

Kshamata Khadka	Head, women and children department	Kopila Nepal
Yubaraj Parajuli	Secretary	Kaski District Court Bar Association
<b>Location: Ilam, Ilam District</b> <b>Date: 28<sup>th</sup> November, 2022</b>		
Taranath Parajuli	Lawyer	Ilam District Bar Association
Naresh Shrestha	President	
Sabina Shrestha	Nurse	OCMC, Ilam Hospital
Kamal Bdr. Bhandari		Ilam Municipality
Uttam Poudel	Lawyer	Ilam District Bar Association
Lok Bahadur Hamal	Lawyer	Ilam High Court Bar Association
Prakash Adhikari	Officer	PAG Nepal
Tej Bahadur Sinjoli Magar	Government attorney	High Government Attorney Office, Ilam
Chudamani Pause	Sub-inspector	District Police Office, Ilam
Yam Bahadur	Assistant Sub-inspector	District Police Office, Ilam
Phulthunga Baral	N/A	N/A
Gayatri Thegim	Case Management Officer	Human Rights Forum Ilam
Sanu Das	Former member	Judicial committee, Ilam Municipality
Khadananda Poudel	Officer	Ilam District Court
Dikksha Singh	Law scholar	BA.LLB
<b>Location: Hetauda, Makwanpur District</b> <b>Date: 25<sup>th</sup> December, 2022</b>		
Pesal K. Pokharel	Section Officer	Ministry of Internal Affairs and Law
Amrita K. Shrestha	S.A.N.M.	M.H
Pankaj Adhikari	Stipend lawyer	Makwanpur District Court

Arun Chaudhary	N/A	High Government Attorney office, Birgunj
Niri Giri	Ward chair	Birgunj Metropolitan City
Omprakash Gupta	Lawyer	District Bar Association, Parsa
Rakesh Kumar Malik	Lawyer	District Bar Association, Parsa
Ajay Kumar Swarnikar	Lawyer	High Court Bar Association, Parsa
Bishal Chaudhary	Lawyer	High Court Bar Association, Parsa
Hema Thapa	Nurse	Narayani Hospital, OCMC
Samir Tharu	N/A	District Court, Parsa
Sandeep Bohora	N/A	District Government Attorney, Parsa
Nisha Ghimire	Nurse	Narayani Hospital, OCMC

Hari Prasad Nepal	Na.Su	Makwanpur District Court
Man Prasad Bhattarai	Advocate	District Bar Association, Makwanpur
Maya Tamang	Program Coordinator	Maiti Nepal, Makwanpur
Mana Lama	Supervisor	N/A
Anjita Sapkota	Section Officer	Patan High Court Hetauda Bench
Prabhu K. Baitha	Nasu	High Government Attorney Office
Netra Pd. Acharya	Nasu	District Government Attorney Office
Sujan Timalisina	Legal Officer	Hetauda Sub-Metropolitan City
Laxman Mainali	Officer	Hetauda Sub-Metropolitan City
Apsana Basnet	President	District Bar Association, Makwanpur
Chuda Kumari Khadka	Inspector	District Police Office, Makwanpur

**Dialogue Program with Women and Marginalized Group on Access to Justice of Women and Marginalized Community and Use Of E-Justice System During Covid 19 Pandemic**

<b>Location: Dhangadi, Kailali District Date: 21<sup>st</sup> September, 2022</b>	<b>Location: Pokhara, Kaski District Date: 7<sup>th</sup> February, 2023</b>	<b>Location: Ilam, Ilam District Date: 28<sup>th</sup> November, 2022</b>	<b>Location: Surkhet, Surkhet District Date: 4<sup>th</sup> December, 2023</b>	<b>Location: Hetauda, Makwanpur District Date: 25<sup>th</sup> December, 2022</b>	<b>Location: Birgunj, Parsa District Date: 26<sup>th</sup> December, 2022</b>
Rekha Damai	Srijana Magar	Sushma Parajuli	Shanti B.C.	Kopila Lama	Kunti Devi Paswan
Hina Koli	Sumitra Dhakal	Menuka Katwal	Uma Kumari Sharma	Rita Karki	Manju Deu Soni
Nisna Pal (Sah)	Kusum Kumari Giri	Ganga Acharya	Nirmala Khatri	Rina Pariyar	Mandira Pakhrin
Krishna Chand (Sahi)	Salina Parajuli	Deukala Rai	Khim Kumari Thapa	Pratima Shrestha	Sarita Devi Paswan
Rewati Bohara	Urmila Ranabhat	Sujita Karki	Muna Gurung	Bir Maya Rumba	Gita Devi Shreevastab
Elwisa Sijapati	Chelimaya Gurung	Bishnu Maya Luitel	Yemuna Kandel	Ganga Maya Lama	Maharum Nesha
Dhanamaya Dahal	Krishna Maya Gurung	Sarmila Limbu	Mamata Century	Chhiring Dolma Tamang	Devmati Devi
Kalpana Dahal	Samjhana Sarki	Namrata Basnet Karki	Tikaram Cheuli	Nanimaya Thing	Lalmuni Khatun
Hira Kumari Dagaura	Anu Thapa	Kusum Rani Magar	Kalawati Chaudhary	Sangita Lama	Amrita Kumari Yadav
Sapana Bithadi	Anita Pariyar	Ashmina Tamang	Garima B.K.		Sabitri Karki Mahat
Durga Devi Chaudhary	Anjana Pariyar		Tilsari Karki		Manisha K. Shreevastab
			Menaka Chaulagain		Matnarayan Raya Yadav
			Dudhkali Budha		Jokhan Hajara
			Bima Shahi		

## Questionnaire for Key Informants Interview

Name:

Post:

Office:

Gender:

Date:

Contact No:

1. How was the situation of Access to Justice during the Covid-19 pandemic? What was the situation of women and marginalized during the same time period?
2. During the Covid-19 pandemic, what was your experience when your office provided regular services in the field of Access to Justice for women and marginalized groups?
3. During the Covid-19 pandemic, what sort of standards did your office adopt while providing services in the field of Access to Justice for women and marginalized groups?
4. During the Covid-19 pandemic, what were the effects observed upon women and marginalized groups regarding Access to Justice on the basis of the standards adopted by your office?
5. How was the status of cooperation and coordination from other agencies during the Covid-19 pandemic?
6. What were the legal, procedural and structural initiatives in the office you represented regarding Access to justice for women and marginalized groups during the Covid-19 pandemic?
7. During the Covid-19 pandemic, what kind of legal and procedural challenges did you and your respective office face while providing justice to women and marginalized groups? What was the structural problem?
8. When providing services during the Covid-19 pandemic, did your office make use of e-justice/ digitalization (phones, computers, apps, electronic messages, online complaint registration, phone complaint registration, online hearing and taking statement). If so, then what kind of services did you provide and what were its effects.
9. During the Covid-19 pandemic, what sort of challenges did your office face while providing services through e-justice/digitalization system? What should be done to address such challenges?
10. Based on the experience during the Covid-19 pandemic, what kind of reforms should be made at the policy level as well as at the structural level to improve access to justice during future disasters or pandemics? What specific should be done for women and marginalized groups?



# Questionnaire for Dialogue with service seekers

1. Name, last name (optional):.....
2. Address:.....Contact number.....
- 3. Occupation**
  - i. Job
  - ii. Business
  - iii. Student
  - iv. Others
- 4. Age**
  - i. Below 18 years
  - ii. 18 to 35 years
  - iii. 36 to 60 years
  - iv. Above 60
- 5. Religion**
  - i. Hindu
  - ii. Buddhism
  - iii. Christianity
  - iv. Islam
  - v. Others
- 6. Caste/ ethnicity**
  - i. Brahmin/Chhetri
  - ii. Indigenous/Indigenous nationalities
  - iii. Dalit
  - iv. Madheshi
  - v. Others
- 7. Educational status**
  - i. University level
  - ii. Higher secondary level
  - iii. S.L.C
  - iv. Below S.L.C
  - v. Illiterate
- 8. Financial status**
  - i. Rich
  - ii. Middle class
  - iii. Poor
  - iv. Below the poverty line
- 9. Marital status**
  - i. Married
  - ii. Unmarried
  - iii. Single
  - iv. Divorced
  - v. Living together

10. Did you go through any legal issue or violence of any sort during the time of covid-19?  
 i. Yes ii. No

If yes, what was the form of legal problem or violence among the following?

- |                             |   |
|-----------------------------|---|
| 1. Divorce                  | 6. Partition                                |
| 2. Claim of bread and board | 7. Domestic violence                        |
| 3. Hurt                     | 8. Libel/defamation                         |
| 4. Sexual violence          | 9. Murder                                   |
| 5. Human trafficking        | 10. Rape                                    |
| 11. Others                  | 12. Crime related to electronic transaction |

12. How was the experience on registering a plaint or filing a complaint during the times of covid?  
 i. Inconvenient ii. Convenient  
 iii. Others.....

13. How was the response of your family over your legal problems during the extreme times of covid?  
 i. Supportive iv. Satirical  
 ii. Unsupportive v. Normal  
 iii. Frustrating or dominating vi. Discouraging

14. How has been the behavior of judicial employees during the times of covid-19?

Name of the institution	Supportive	Unsupportive	Delayed response	Others	Remark
Police office					
Court					
Office of the Government Attorney					
Judicial committee					
Lawyers					
Hospital (OCMC)					
Legal Assistance Committee					
Mediators					
Safe home					
Pro-bono lawyers					
Quasi-judicial bodies					
National women's commission					
National human rights commission					
Others					

15. How do you objectify the effectiveness of judicial decisions?  
 i. effective ii. ineffective iii. Implementation is tough iv. Others

16. Did the measures adopted during the covid-19 made the accessibility to justice more costly?

17. Are you satisfied with the justice mechanism adopted during the times of covid?  
 i. Yes ii. No

If yes, why? And if no, why?

.....

18. What were the challenges that you had to face in reaching the judicial bodies during the times of Covid?

19. Did you get acquainted with the methods of e-justice/digitalization during the times of covid-19? If yes, what was the form of service that you got introduced to and what was your experience?

## Check list for Field observation (visit)

Name of the office:.....

District/place.....

Date.....

### **E-justice/Digitalization**

#### **Utilization**

- What was the service provided and how was it?
- How often was the service utilized?
- What is your opinion about the effectiveness of the service provided?
- Would you like to share about the challenges that you faced while providing service using e-justice to the service seekers?
- What were the challenges faced by the service seekers while using e-justice?
- Is e-justice service currently in operation or not?

#### **Availability of technology**

- What is the status of the physical infrastructure of the institution?
- How many computers/laptops are available in your institution?
- Are the available computers in good function?
- What is your opinion on availability of internet and its speed?
- Do you have enough technology to support online registration/ virtual hearing/virtual testimony of witness?
- How is the structure of the rooms enclosing bench/sections/departments? Are those structures convenient enough?

#### **Technological complexities**

- Did you face any technological issue while using E-justice in your institution?
- What was your suggestion for solving that issue?
- What is the number of IT experts working in your institution? Do you think that those numbers are well suited?
- Did the utilization of such technology, in any way hinder the case proceeding? If yes, what was the problem?

#### **Human resources**

- Are the employees of this institution technology-friendly?
- Has there been any effort to train such employees in order to make them technology-friendly?

What would be your idea on resolving this issue sustainably?

.....

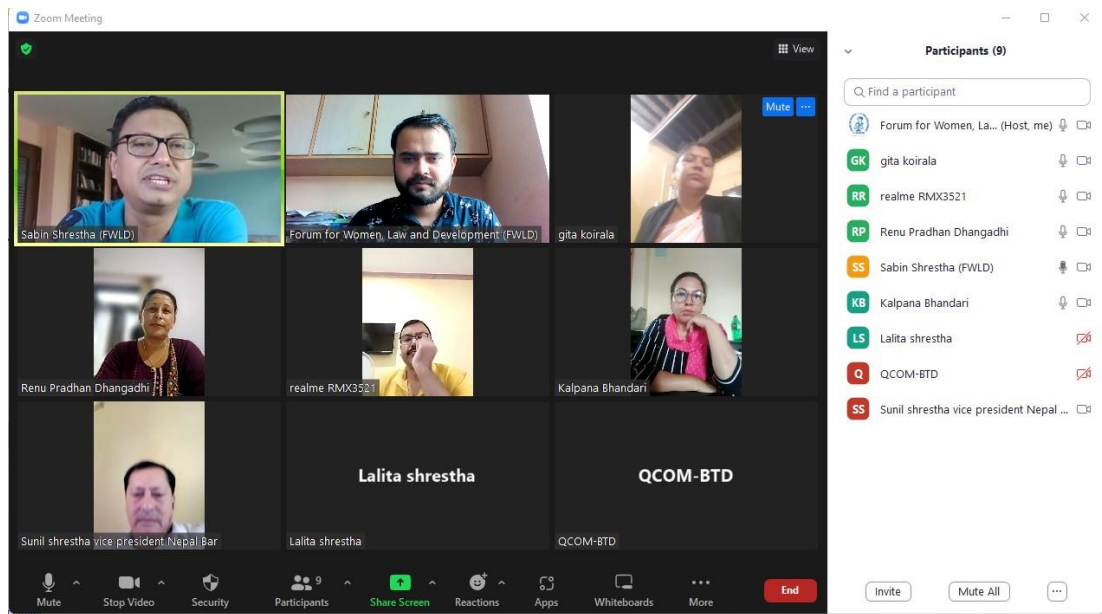
## **Code of conducts to be followed by Researcher**

1. Researcher in each district while performing their research should coordinate with Forum for Women, Law and Development.
2. No interviews or personal opinion of the interviewee or participant should be made public unless he/she consents.
3. There should be proper respect towards the right to confidentiality in relation to the opinions and identity of the participant.
4. Researcher should be highly respectful towards the participant.
5. Unless the participant allows, no interviews or any act related to it should be initiated.
6. While conducting interview, no interpretation or activity of any sort should be allowed that may hurt the sentiment of the interviewee.
7. No interviews should be conducted forcefully.
8. While conducting research work, researcher should be neutral and should not hold any urge or bias towards the interviewee.
9. The opinion of interviewees should not be intentionally influenced.
10. During the research, every report or statistics so collected should not be revealed unless officially published.
11. While carrying out the research or study, participants may be involved through physical meet, phone or any electronic medium.
12. Researcher should fully and strictly follow the code of conduct.

## Glimpses of the Program



*Meeting with Technical Advisory Committee*



*Orientation with Provincial Researchers*



*Consultation and Dialogue Program on Access to Justice of Women and Marginalized Community and Use Of E-Justice System During Covid 19 Pandemic, Kailali on 21-22 September, 2022.*



*Consultation and Dialogue Program on Access to Justice of Women and Marginalized Community and Use Of E-Justice System During Covid 19 Pandemic, Banke on 13<sup>th</sup> October, 2022.*



*Consultation and Dialogue Program on Access to Justice of Women and Marginalized Community and Use Of E-Justice System During Covid 19 Pandemic, Ilam on 28<sup>th</sup> November, 2022.*



*Consultation and Dialogue Program on Access to Justice of Women and Marginalized Community and Use Of E-Justice System During Covid 19 Pandemic, Surkhet on 4<sup>th</sup> December, 2022.*



*Consultation and Dialogue Program on Access to Justice of Women and Marginalized Community and Use Of E-Justice System During Covid 19 Pandemic, Makwanpur on 25th December, 2022.*



*Consultation and Dialogue Program on Access to Justice of Women and Marginalized Community and Use Of E-Justice System During Covid 19 Pandemic, Parsa on 26th December, 2022.*



*Consultation and Dialogue Program on Access to Justice of Women and Marginalized Community and Use Of E-Justice System During Covid 19 Pandemic, Kaski on 7-8<sup>th</sup> February, 2023.*

