

Influence of Political Parties on the Judicial Process in Nepal

Nurul Momen

Associate Professor, Department of Public Administration
University of Rajshahi, Bangladesh

THIS COMMENTARY ARGUES that access to justice in Nepal is problematic because political parties wield a lot of influence on the judiciary and on law-enforcement personnel. They use the judicial process to eliminate opponents, boost interests, or ensure that are crimes never prosecuted.

The commentary specifically cites examples of how such political parties obstruct the judicial process by directly intervening on the prosecution of human rights violators and corrupt officials in the country. This has severely eroded the effective functioning of the judiciary.

Aria and Bhuwan (2010) report that different opinion surveys show that people perceive the influence of the Nepalese government on the judicial process. The political system in the country is characterized by a constant changing of the ruling party, who, among other things, protect corrupt members from criminal prosecution. Indeed, succeeding governments in Nepal since 1991 have misused criminal prosecution to serve party interests. Influential party representatives at the local level intervene in the investigation of cases by pressuring the police force and the criminal courts to release party members who have been accused of crimes under the law.

This is shown in the case of the Unified Communist Party of Nepal (CPN), the previous ruling party in the Nepalese government. During the 2008 elections, CPN party members were elected into the Constituent Assembly of Nepal. The government was reported to have provided NR

500,000 to NR 800,000 (US\$10,148) to over 7,000 former CPN fighters, who had been demobilized after the civil war. The amount varied according to their military rank, but the cash aimed to help ease their return to civilian life. Also, about 9,000 former CPN Maoist fighters are now part of the army (BBC 2012).

All these despite the fact that many CPN party members were convicted of human rights violations during the armed revolutionary years. In 2012, the United Nations High Commissioner for Human Rights (UNHCHR) published a report stating that there were 30,000 cases of human rights violations during the armed struggle from 1996 to 2006. These included 9,000 cases which were “serious violations of international human rights law and international humanitarian law” (Suhās 2012).

Another instance of the politicization of the judicial process in Nepal is evident in the case of a former government minister. The Nepal Monitor (2012) published a report on the corruption case against Jaya Prakash Prasad Gupta, former Minister for Information and Communication. It was filed by the Commission for the Investigation of Abuse of Authority (CIAA). On the 21st of February 2012, the verdict found that Gupta was guilty of having “accumulated money and property from unknown sources while holding public offices in different capacities since 1992.” The Supreme Court slapped on him an NR 8.4 million-fine (US\$100,500) and ruled that he be jailed for 18 months. After the verdict was delivered, Gupta and his political party protested, saying that he was being sentenced for his opposition to other parties and not for his corruption. His fellow party members backed Gupta’s claim by stating that the verdict was politically biased and ill-intended, forcing the court to revise their verdict (ibid.).

As seen in these instances, the judicial process has been tampered with and hindered by political entities. This has a profound impact on Nepalese political life. In 2005, the United Nations Development Programme (UNDP, 126) found that a lack of independence of the Nepalese police force encourages a culture of impunity, and unless they

become accountable to the rule of law and observant of the national and international framework of human rights, their ability to protect the public is seriously compromised. There is also widespread public sentiment that the peace process will only result in a blanket amnesty for the criminals. A hope of peace or justice is neither to be expected as access to justice is seriously undermined in the country. Such access to justice is the keystone of good governance. Despite the hope of the public that justice will be served, the so-called democracy in Nepal has not brought any significant change to the people's lives.

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