

GOVERNANCE

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Presidential Pardoning Authority Raises Concerns Over Abuse of Power

Photo by The Himalayan Times

Under Article 276 of Nepal's Constitution, the President holds the authority to grant pardons, suspend, commute, or remit sentences issued by various judicial and quasi-judicial institutions. However, this power comes with clear restrictions, including a ban on pardoning those convicted of heinous crimes such as corruption, brutal torture, murder, rape, and human trafficking or those involved in genocide, explosions, kidnapping, hostage-taking, human trafficking, money laundering, and narcotic drugs trafficking and those facing sentences exceeding three years.

Despite these legal constraints, the presidency in Nepal has come under scrutiny for what some perceive as an abuse of this power. A series of controversial pardons and amnesties in recent years has ignited concerns about the intent behind this constitutional provision.

In 2015, Nepal's first President, Baburam Yadav, sparked controversy by granting a [pardon to Pradeep Jung Pandey](#), who was convicted in a corruption case. This move set a precedent that raised eyebrows. Former President Bidhya Devi Bhandari added to the controversy by granting [amnesty to Bal Krishna Dhungel](#), a convicted murderer, on Republic Day in 2018. The most recent incident, in 2023, saw President Ramchandra Poudel [pardon Resham Chaudhary](#), a former lawmaker convicted as the "mastermind" behind the 2015 Tikapur carnage, in which seven police officers, including a Senior Superintendent of Nepal Police, and a toddler lost their lives. This decision was met with significant public outrage. Another case in September 2023 involved President Poudel granting amnesty to Yograj Dhakal, also known as 'Regal,' who had been serving a life sentence for the 2015 murder of Chetan Manandhar.

The pardoning authority is intended to rectify potential judicial errors and ensure that justice is served. It relies on the assumption that presidents will act impartially, free from bias and political affiliations. However, in practice, presidential decisions have often been influenced by political considerations, undermining the rule of law and eroding public trust in the Constitution.

The abuse of presidential pardoning authority not only raises questions about justice but also adds to the suffering of victims' families who seek closure and accountability for the crimes committed. It calls for a closer examination of the balance between executive power and the principles of justice and fairness in Nepal's legal system.

Read more: [The Kathmandu Post](#)

Governance Issues of the Week

1. The government's implementation of the "Terramex" provision for recording personal details, including phone calls and text messages, has sparked controversy and concerns over privacy. The Telecom Authorities have purchased unusually priced equipment without the proper law, which has raised questions about transparency. Critics argue that citizens' right to privacy is being violated, while the government defends the move as necessary for security and monitoring.

Read more: [EKantipur](#)

2. Nepal's 5G trials are at risk of delays due to equipment import license denials and suspicions of geopolitical interference from the suppliers Huawei and ZTE. Nepal Telecom's plans to expand 5G trials across the country's provinces may be hindered, potentially slowing the country's adoption of fifth-generation mobile technology.

Read more: [The Kathmandu Post](#)

3. Nepal Airlines Corporation (NAC) has suffered losses exceeding NPR 20 billion over six years due to mismanagement, notably due to the ineffective operation of the Airbus A330 wide-body aircraft. The aircraft was initially intended for long-distance flights to destinations such as the USA, Europe, Korea, and Australia but has only been able to fly to India and Gulf countries, which has incurred heavy losses.

Read more: [Naya Patrika](#)

4. The Nepali government has simplified the registration process for foreign direct investment (FDI) up to NPR 500 million (\$4.28 million) through the Foreign Investment and Technology Transfer Act (FITTA). This change allows investors to use automated routes, streamlining FDI procedures and promoting investment in Nepal by enabling online license and approval applications.

Read more: [My Republica](#)

5. In its 33rd Annual Report submitted to the President, the CIAA disclosed filing corruption cases against 766 individuals in 162 cases during the fiscal year 2022-23, with 622 men and 138 women among the defendants. The report also mentions receiving 20,905 complaints, primarily related to local government matters, and initiating investigations into 1,333 complaints, resulting in 162 charge sheets filed at the Special Court.

Read more: [The Himalayan Times](#)

6. The government of Nepal is set to implement parole provisions as outlined in The Criminal Offences (Sentencing and Execution) Act, 2017, with the District Court judge having the authority to grant parole to eligible offenders who have served two-thirds of their sentence and demonstrated good conduct. However, certain serious offenders, including those convicted of life imprisonment, corruption, rape, human trafficking, and more, will not be eligible for parole. Around 1,600 out of 27,950 prisoners may benefit from this decision, aimed at prisoner reintegration.

Read more: [The Himalayan Times](#)

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