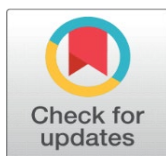


PRACTICES OF GOOD GOVERNANCE IN NEPAL

Govinda Prasad Guragain ¹, Bhawani Shankar Adhikari ²

¹ Associate Professor, Tribhuvan University, Department of Political Science, Padmakanya Multiple Campus, Bagbazar, Kathmandu, Nepal

² Associate professor, Nepal Sanskrit University, Department of English, Balmiki Campus, Exhibition Road, Kathmandu, Nepal



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Corresponding Author

Govinda Prasad Guragain,
guragaingovinda@gmail.com

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ABSTRACT

This article has mirrored the positive and negative aspects of good governance in Nepal. It has explored both weaknesses and strengths of good governance implications in the system of operation of various organs of the government of Nepal under the new constitution 2015 as envisioned by the legislatures via the Constitution Assembly. Despite the fact that democracy is the precondition of good governance, Nepal, being a democratic nation, lacks a proper functioning form of good governance. Several rules and strategies for good governance are included in Nepal's constitution and other laws. They are, nevertheless, constrained by the black letters of legislation and court judgments. Even Nepal's Supreme Court has issued multiple verdicts on the question of good governance. The division into central, federal, and local governance only can't fulfill Nepal's good governance needs. But, to manage difficulties within and between municipal, provincial, and federal governments; development projects and governance plans necessitate a sustainable problem-solving mechanism. One cannot deny that Nepal's governance system is still in its early stages of improvisation. However, in the coming days, vital actions will be more important than the provisions guaranteed by the Constitution but never implemented practically.

Keywords: Constitution, Democracy, Federal, Good Governance, Implication

1. INTRODUCTION

The term "governance" etymologically denotes the exercise of power in managing public affairs. It encompasses the norms, values, and regulations that dictate how public matters are handled in a transparent, participatory, inclusive, and responsive manner. The concept of "good governance" originated from the efforts of international donor organizations, notably the World Bank, rather than from scholarly discourse. It was first introduced in the 1989 World Bank Report on Sub-Saharan Africa, which characterized the region's condition as a "governance

crisis," marked by widespread corruption and resistance from recipient governments to reforms, rendering aid ineffective. [Weiss & Steiner \(2006\)](#).

In the late 1980s, the World Bank and the International Monetary Fund observed that underperforming public sector institutions and fragile governments were hindering the growth and fair development of numerous developing countries. This led to the emergence of the concept of good governance on a global scale [Addink \(2019\)](#).

International organizations like the United Nations Development Programme (UNDP), the World Bank, and the OECD Development Assistance Committee (DAC) define governance as the exercise of authority or power to manage a country's economic, political, and administrative affairs. In the 2009 Global Monitoring Report, governance is described as encompassing power relationships, formal and informal methods of policy-making and resource allocation, decision-making processes, and mechanisms for government accountability. The term "good governance" is widely used in development literature, with donors emphasizing its importance as a prerequisite for creating a conducive environment for poverty reduction and sustainable human development. Good governance has also been identified as one of the Millennium Development Goals (MDGs). Governance can be classified into monocentric, polycentric, and multilevel governance. In monocentric governance, the state holds the central focus of political power and authority. The state exercises control over society, the economy, and resources. It achieves this by setting the agenda for addressing social issues, defining policy objectives and strategies, and implementing policies in a top-down manner [Kooiman \(2003\)](#), [Pierre \(2000\)](#).

Polycentricity refers to a governance system where authorities from multiple overlapping jurisdictions or centers of authority collaborate to establish the parameters under which these authorities, along with the citizens under their jurisdiction, are empowered to act, as well as the limitations imposed on their actions for public purposes [Stephan et al. \(2019\)](#). Multilevel governance emphasizes the redistribution of state authority and control in three dimensions: (1) upwards to international actors and organizations, (2) downwards to regions, cities, and communities, and (3) outwards to civil society and non-state actors [Bloomsbury \(n.d.\)](#)

The drawbacks and inefficiencies of a centralized political and administrative framework have hindered attempts to enhance the overall quality of life for the majority of people, posing a challenge to the success of democracy. As a result, significant donors are currently prioritizing policy reforms, emphasizing economic liberalization, decentralization, human rights, democracy, civil society, and good governance as prerequisites for development aid.

Democracy serves as a fundamental requirement for ensuring good governance, as democracy and effective governance are closely intertwined. Competent governance is essential for strengthening democracy, although even democratic administrations may face challenges in governance. However, a democratic system is indispensable because it is the only one capable of upholding the principles of economic and political freedom, fostering individual development, and encouraging public participation, all of which are key aspects of good governance. Nepal, as a democratic nation, embraces governance practices aligned with these principles.

The Constitution of Nepal (2015) officially proclaimed Nepal as a "federal democratic republic," ushering in a federal political structure comprising three tiers of governance: the Federation, the Province, and the Local level. Within this

redefined constitutional framework, federal laws and revisions to other sector-specific laws delineate the authorities and responsibilities of the federal, provincial, and municipal governments.

2. RESEARCH QUESTIONS

Nepal has not got its good governance functioning properly from the long time of the past. The practices that have been carried out in the maintaining of the good governance and order have been found to be somewhere having its lapses. The federal democratic republic has been functioning recently and it has not got good experience in maintaining the law and order effectively in the day-to-day affairs by the state for the delivery of the good service. The research has not been done regarding it and the following research questions have guided the research:

- 1) How is good governance practiced in Nepal?
- 2) What are the laws in Nepal in support of good governance?
- 3) How has Nepal met the principles of governance as practiced in other nations?

3. OBJECTIVES

The general objective of the research is to overview the overall condition of the good governance in Nepal and to investigate the possible ways of mitigating the good governance in Nepal by the implication of the law and the constitution of Nepal. The specific objective of the research is aimed:

- 1) To investigate the good governance practiced in Nepal.
- 2) To explore the laws which cover good governance practice in Nepal.
- 3) To trace out the principles of good governance met by Nepal as practiced in other nations.

4. METHODOLOGY

This is primarily an analytically evaluated work that assesses the state of governance and development in the emerging world, as well as the challenges and lessons for Nepal, using secondary data and material available in national and international publications and internet platforms. Secondary data have been gathered by studying pertinent papers, policy documents, journal articles, books, and other important sources in Nepali and English. The material has also been derived from many articles, seminar papers, and reports produced by national and international organizations.

5. SIGNIFICANCE OF THE RESEARCH

The research has got its own significance and its importance as its implication for the use of the principle. The good governance is the only one way of establishing peace, order, harmony and the advancement of the nation. Good governance is the means of transforming, reforming and reestablishing the nation in the better way of the development and enhancing the overall organs of the country. The good governance of the country can help the possible form of the stable government and effective form of functioning of the nation's various organizations in the smooth way. The research can become the path of the directing the principle of leading the

county in the in a proper way and it helps to make the policy to the policy makers and planners for the formation of the good governance.

6. DELIMITATION

This study reflects the various practice of good governance only in Nepal and it doesn't necessarily go out of the Nepalese context for the detail analysis and it can be generalized documents for other countries. The results presented in this study is also based on the various literature surveys and the governance system in various institutions which are considered by direct practical observations.

7. LITERATURE REVIEW

The advancement of good governance in Nepal is marked by three distinct phases. The initial phase spanned from 1951 to 1990, followed by the second phase from 1990 to 2006, and the ongoing third phase from 2006 to the present. Establishing provisions and ensuring the implementation of good governance has been pivotal for effective planning and enhancing the well-being of both individuals and the nation as a whole. Consequently, researchers have endeavored to examine the existing state of governance in Nepal, its operational methods, and have also proposed strategies for enhancing the current scenario.

A few attempts have been made to study the practices of good governance in Nepal. Bhul Baburam has conducted an analysis of governance and development in emerging nations, drawing lessons and identifying challenges relevant to Nepal. His research delves into the myriad obstacles facing governance and development in Nepal, particularly during the country's transition to its new federal structure. [Bhul \(2022\)](#). Bhul Baburam's main objective in his analysis of governance and development in the emerging world, focusing on challenges and lessons for Nepal, is to investigate the issues Nepal faces and its developmental and governance status within the global context. He conducted his research by examining various reports, policy documents, journal articles, and books as secondary sources. However, he argues in his article that governance literature is essentially a subset of the broader literature on the political economy of institutions and development. He suggests that proponents of governance have yet to convincingly demonstrate the existence of a distinct concept of "governance" that is causally linked to development.

During the implementation of Nepal's new federal structure, the country has encountered numerous challenges in governance and development. Baburam highlights the potential risks to the entire political system if these warning signs are ignored. He draws parallels between Nepal's transition from a unitary government structure and the struggles faced by local administrations, which lacked sufficient authority to enact meaningful reforms despite the enthusiasm for the new system. Baburam emphasizes the importance of shifting perspectives among the populace, bureaucrats, and political leaders to establish effective governance for sustainable development.

He observes that the current governance bodies in Nepal continue distributive development processes without significantly altering the underlying goals of public policy, similar to previous administrations. Moreover, launching development initiatives without adequate planning and neglecting project socio-economic viability and environmental considerations are additional challenges associated with the operation of Nepal's new federal structure.

[Lamichhane \(2021\)](#) has investigated the concept and components of good governance, providing a descriptive analysis of different laws, case laws, and

principles established by Nepal's Supreme Court concerning good governance. His study evaluates the effectiveness and deficiencies of legislation and judicial procedures concerning internationally recognized norms and principles of good governance. Additionally, Lamichhane's report delves into the legal procedures related to good governance in Nepal, including discussions on civil rights within the framework of good governance.

To ensure a coherent government plan that addresses the needs and aspirations of the general population, it's essential to utilize authority and resources equitably. This aims to protect and enhance citizens' rights, welfare, and overall well-being through legitimate democratic governance grounded in the rule of law. Such governance endeavors to promote peace, prevent crime, and ensure equality and fairness in public decision-making. It advocates for limited political power, efficient management, and a state administration system free from fraud and corruption.

The principal legislative measures aimed at fostering good governance in Nepal are enshrined in various laws, including The Constitution of Nepal 2015, The Prevention of Corruption Act 2002, The Commission for the Investigation of Abuse of Authority Act 1991, The Public Procurement Act 2007 and Rules 2008, The Good Governance Act 2008, The Right to Information Act 2007 and Rules 2009, The Local Government Operation Act 2017, among others. However, despite these legal frameworks, current practices often fall short of ensuring effective governance in Nepal. Consequently, the Supreme Court has provided several directives on the application of these laws to promote good governance.

The article explores numerous statutes, case laws, and principles established by the Supreme Court of Nepal regarding good governance, examining their concepts and constituent elements. Furthermore, it aims to assess these laws and judicial procedures against universally recognized norms and concepts of good governance.

[Dahal \(2020\)](#) has endeavored to explore the democratic practices and principles of good administration in Nepal. He concludes that while Nepal currently struggles with effective implementation of good governance, there is a gradual institutionalization of democratic practices and principles of good governance taking place.

In a similar vein, [Chaudhary \(2019\)](#) has conducted research on devolution and its impact on local levels, which directly affects local communities and grassroots democracy. This study aims to address the gap in understanding the structure and functioning of local governance within Nepal's new political system. Chaudary further elaborates on the concept of decentralization and its significance for promoting good governance in Nepal. His analysis reflects on the political transformations and the challenges faced in establishing a democratic government in Nepal.

Over time, Nepal has undergone several political system changes, ultimately transitioning to a unitary federal political structure. This system aims to promote local empowerment and economic growth by decentralizing power across various localities. Devolution, a broader term encompassing decentralization, involves granting constitutional authority and jurisdiction to sub-national levels of government. This essay explores devolution and its impact on local levels, crucial for grassroots democracy and community engagement.

The analysis focuses on key legal documents such as the 2015 Nepali Constitution, the 2017 Inter-Governmental Fiscal Transfer Act, the Local

Government Operations Act, and other sector-specific laws. Additionally, an empirical study examines three rural municipalities to identify challenges faced at the local level.

Under federalism, the 2015 Nepali Constitution grants significant autonomy and jurisdiction to local levels. However, issues regarding governance, leadership, legal inadequacies, coordination gaps between local, provincial, and central governments, and limited mobilization persist. The effectiveness of the current municipal governance system remains a subject of debate, highlighting the need for improved leadership to address local governance challenges and foster grassroots democracy and development.

Dahal (n.d.) have authored a book focusing on the concepts of good governance and decentralization within the Nepalese context. Their work delves into the historical evolution of governance in Nepal, emphasizing the simultaneous progression of decentralization. The book explores the interplay between democracy and decentralization, advocating for robust decentralization efforts both from the government and at the local level to ensure sustainability. It delves into democratic movements and their impact on governance practices in Nepal, analyzing the relationship between political movements, democracy, and good governance. Additionally, the book examines the principles of decentralization and their role in shaping the country's political system.

In the present Nepalese context, good governance and decentralization are deeply intertwined, crucial for the effective functioning of a democratic system. A democratic polity relies on the equitable distribution of decision-making authority to prevent overwhelming a particular level of governance. Efficient management necessitates substantial transfers of resources, responsibilities, and power from the central to sub-national levels of government, expanding the decision-making process and empowering grassroots participation.

Decentralization removes barriers for ordinary citizens, allowing for greater representation and involvement in governance. A diverse and multifaceted decision-making framework is essential for complex societies to fulfill various functions clearly, unambiguously, and predictably. Beyond the political imperative, there's a moral obligation to advocate for increased democracy.

Globalization and increased public participation have hindered the central government's ability to make prompt and effective decisions. The changing landscape of foreign aid demands greater public engagement and equity in decision-making processes and policies. Pressure on the central government to devolve authority to local units of self-governance has intensified, promoting civic engagement, leadership development, and social and economic progress.

This study aims to underscore the interdependence of democracy and decentralization, advocating for decisive decentralization measures by both the government and local initiatives. However, challenges persist due to tendencies toward centralization in national and international spheres. Despite regional commitments complicating decentralization efforts, they remain imperative. The authors hope this study sparks reflection and action among decentralization practitioners.

8. RESULT AND ANALYSIS

Until recently, discussions about Nepal's state, society, or economy seldom included mentions of its interstitial social links and institutions. However, since the reinstatement of multiparty democracy, there has been a growing demand for

deeper understanding, enhanced control, improved accountability, responsiveness, and ownership in governance and development processes. The Constitution of Nepal 2015 officially declared Nepal as a federal democratic republic, establishing three primary levels of structure: federal, provincial, and local. The new constitution theoretically aligns with Nepal's vision of good governance [Dahal \(2020\)](#).

This allocation transferred certain powers and authorities to the federal, provincial, and municipal levels. On January 31, 2017, the Government of Nepal endorsed the unbundling of constitutionally mandated functions. The Business Allocation Rules outline the responsibilities of federal and provincial ministries across different levels, based on the unbundling framework set by the government.

The Local Government Operation Act (LGOA) legally upholds the separation of local government functions. As per these legal documents, the federal level has been assigned 606 functions, while provinces and municipalities have been allocated 267 and 302 functions, respectively. With the exception of defence and foreign affairs, most tasks are distributed among the federal, provincial, and local levels.

The majority of functions delegated to the federal level pertain to internal affairs, economic affairs, industry, commerce, and supply, among others. Provincial responsibilities include internal affairs, forestry and environment, health and population, industry, commerce, and supply. Local-level tasks encompass agriculture, health, education, urban development, forestry, and environmental matters. While there are no universal principles for assigning functions across the three levels of government, several federal nations worldwide adhere to principles such as subsidiarity, economies of scale, finance and functionaries aligned with functions, equity and inclusion, accountability, and cooperation, coexistence, and coordination. These principles require adaptation to meet Nepal's constitutional requirements.

Article 232(1) of the Nepalese Constitution emphasizes cooperation, coexistence, and coordination among federal, provincial, and local levels. When distributing functions and unbundling constitutional mandates, Nepal has endeavored to adhere to these principles. Although not explicitly stated, certain criteria seem to have guided the allocation of functions across Nepal's federal, provincial, and municipal governments.

The preamble of Nepal's 2015 Constitution recognizes the significance of good governance within the country's legal and political frameworks. The constitution envisions a rule of law and a welfare state rooted in an open society, wherein citizens possess the right to information and maximum engagement in governance through decentralization. It establishes the supremacy of the constitution in Article 1, emphasizing its fundamental nature. Article 5 pledges to safeguard Nepal's independence, the rights of its people, economic well-being, and prosperity as national interests. Part 3, encompassing Articles 16-46, addresses the fundamental rights of Nepali citizens. These fundamental rights and their remedies aim to ensure citizens lead dignified lives, with good governance being a prerequisite for their enjoyment.

Furthermore, Part 4 of the Constitution focuses on the State's Directive Principles, Policies, and Obligations, encompassing various state policies aimed at ensuring good governance in Nepal. Directive principles are policy recommendations outlined in the constitution for the governance of the state (Article 49, The Constitution of Nepal, 2015), the state utilizes these directive principles as a vital tool to ensure the effective governance, proper functioning, and achievement of its multitude of objectives. The discussion surrounding good governance aims to facilitate the realization of the vision and goals outlined in

various key documents such as the Constitution of the Kingdom of Nepal 1990, the Local Self-Governance Act of 1999, the Ninth Five-Year Plan Document 1998-2002, the Tenth Five-Year Plan 2002-2007, and other relevant policies. These policies, regulations, and acts are instrumental in laying the conceptual groundwork for good governance. The Good Governance (Management and Operation) Act of 2008 serves as a legislative foundation for promoting good governance.

Nevertheless, there exists a disparity between certain conceptual ideals and the practical implementation of policies. The Constitution of the Kingdom of Nepal 1990 explicitly emphasizes the state's responsibility to protect "people's life, liberty, and property," ensure social justice, and foster internal cohesion. It advocates for a society based on social equity, emphasizing three key components: the right to information, public-private partnerships for development, and freedom of employment. However, there is a noticeable contradiction between the liberal principles enshrined in the Constitution and the neoliberal policies and programs observed in practice [Mishra \(2000\)](#) of the post-1991 Nepalese governments, addressing public policies neither beneficial to the advancement of state power nor the poor, unemployed, and excluded, nor even for the market's potential to penetrate society and ameliorate resource shortages. Moreover, overwhelmed by excessive aid in less critical sectors, numerous projects, stringent conditions, a rising debt burden, and a lack of understanding of the nation's circumstances, the political elite has typically engaged in an "undemocratic process of policy-making" [Mishra \(2000\)](#). Even in the Concept Paper of Nepal Development Forum (2002), which was published 12 years after the Constitution was drafted, the focus of governance reform was limited to civil service reforms aimed at making public administration "cost-effective, efficient, streamlined, accountable, transparent, competitive, and gender-sensitive." The study attributes these shortcomings to a lack of dedication to good governance. This indicates the necessity for constitutional and electoral reforms to enhance the representativeness and responsiveness of the political system.

In the current political landscape, citizens are asserting their sovereignty and rights to local self-governance, seeking greater autonomy, social justice, and universal rights. This presents a challenging task for the country's leadership to credibly respond to. There seems to be a conflict between maintaining patronage politics and embracing civic and voluntary organizations and institutions accountable to sovereign citizens. The latter requires significant structural enhancements in the country's political, economic, and social systems. Constitutional and electoral reforms are necessary to ensure a more representative and responsive political system.

Effective governance requires individuals in positions of public authority to refrain from assuming they have all the answers. Instead, they should listen to the people, engage in dialogue, address their issues, and collaborate to find mutually agreeable solutions. Democracy is essential for ensuring fair access and public accountability. However, Nepal's stagnant political economy hinders progress towards desired goals. The pursuit of power and prestige by leadership, rather than a commitment to good governance, exacerbates the situation. A core elite, whether elected or not, typically makes critical decisions, often maintaining the status quo and perpetuating a hereditary succession of leadership within political parties and civil society. This same cohesion could be leveraged to promote effective governance. However, over a decade of political experience has revealed numerous contradictions in the statements of leaders who publicly advocate progressive values while pursuing conservatism, personal gain, and unchecked political activism. Party elders often speculate about the future actions of the next

generation, more out of fear of losing power to the "new generation" than concern for the viability of democracy itself.

Constantly affirming the sovereignty of the people in public policy is crucial for strengthening democracy and fostering progress from the grassroots level. This can be achieved by shifting Nepal's development discourse from reliance on external advice, initiatives, and resources towards addressing local needs and aspirations. There is a call for the central government, international non-governmental organizations (INGOs), and donors, who often establish parallel structures at the grassroots level, to prioritize local leadership development, capital accumulation, entrepreneurship, and increased public participation in grassroots governance. Nepal has made efforts to promote good governance through various revolutions and democratic movements, achieving significant milestones with each. However, there is still a long way to go before the principles of good governance are effectively implemented. Despite the attempts to implement a three-tiered system of government, inconsistencies, overlaps, gaps, and obstacles persist in carrying out the delegated activities and responsibilities at each level. While there are no universal principles or frameworks for assigning functions across the three levels of government, several federal nations worldwide adhere to principles such as subsidiarity, economies of scale, finance and functionalities aligned with functions, equity and inclusion, accountability, and cooperation, coexistence, and coordination. These principles require adaptation to align with Nepal's constitutional provisions. Furthermore, [Guragain & Adhikari \(2024\)](#) have argued regarding the good governance through the international cooperation for the better and effective form of the work of the government.

9. CHALLENGES TO GOOD GOVERNANCE IN NEPAL

Various regulations have been established in Nepal in the pursuit of good governance. However, in Nepal, good governance is not entirely realized. Many obstacles stand in the way of its proper implementation. Numerous causes are directly and indirectly is to be blamed for Nepal's poor performance in good governance.

Corruption poses the most significant challenge to achieving decent governance in Nepal. Municipal-level elections had not been held for over 15 years, with the most recent local election taking place in 1998. This absence of people's representation at the local level has severely hindered good governance. Moreover, political instability has long characterized Nepali politics, with major parties failing to reach consensus on critical issues. Even if they do, it often takes them a considerable amount of time. The bureaucratic system, which plays a central role in implementing good governance, suffers from various flaws and loopholes in Nepal. Bureaucrats often lack professionalism, and there is a prevalent culture of red tape, nepotism, and favouritism. Lastly, the lack of civic consciousness among the populace, along with widespread ignorance, further impedes the effective implementation of good governance in Nepal.

Recently, elections at all levels - central, provincial, and local - were completed in 2022, and governments have been formed at each level. However, not all required laws, as outlined in the Constitution of 2072, enacted by the Constitutional Assembly of Nepal, have been passed by parliament. The provincial and local governments have not fully exercised their legal authority yet. The provincial government has not operated independently to facilitate communication between the central government and local bodies. As this three-tiered system of government is relatively new, good governance has not yet been fully established. Efforts are underway to

raise awareness among government authorities and citizens to promote good governance for the nation's prosperity. Adhikari (2022) have pointed out some the principles of establishing the permanent and good governance to be established globally by the formation of the autonomous international organization and to enhance the advancement of the country. In this sense, the principle of good governance has been applied in the formation of the peace and order in the nation.

10. CONCLUSION

In Nepal, the constitution and other laws include several provisions and policies for effective governance. Despite the existence of separate good governance legislation, constitutional provisions, and other statutory measures, one can't deny the truth that there is no practice of good governance in Nepal. Similarly, the Supreme Court of Nepal has issued numerous verdicts on the question of good governance. There are various governance and good governance challenges in Nepal, but they are only restricted by the black letters of legislation and court rulings. Without action resulting in progressive social impact, laws and court rulings are useless. As a result, Nepal's existing governance system requires reform based on internationally acknowledged good governance principles, norms, and standards, as well as the necessary and specialized mechanism or agency for its practical implication.

Governance reform is unlikely to succeed unless we understand the political processes that cause poor governance in the first place. In the absence of such an understanding, legislative changes to promote governance are typically ineffectual. Effective reform must shift a society's political balance. Though little changes may be sufficient, it is more likely that reform must occur in multiple dimensions at the same time. Also, to manage difficulties within and between municipal, provincial, and federal governments; development projects and governance plans necessitate a sustainable problem-solving mechanism.

Good governance is the matter of establishing good system to meet the essential needs of the public. It comes only through the cultured system of politics and with the stability of government. The parliament must pass the laws and rules for the required regulations in the proper functioning of law and order in different levels-central, provincial and local - of government. The supremacy of law must always be practiced by the authority and the system established by the nation must be followed and obeyed either it is through the authority holders or from the public levels. Morality and ethics function properly side by side to establish good governance. Reward and punishment system must be managed in the system of law and the public have to be aware of such provisions in the law and even those authority holders who exercise power need to be conscious of not avoiding the norms and values managed in the law for the fulfillment of the need of the public. When the ruler and the ruled once are well aware about the establishment of the good governance, then only it becomes effective as well as authentic form of good governance not only in Nepal but anywhere in the world.

CONFLICT OF INTERESTS

None.

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