



Britain - Nepal Lawyers Association (BNLA)

The Bulletin

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Foreword from the Patron

It gives me a great pleasure to have the opportunity to write a few words to the inaugural issue of the bulletin of the Britain-Nepal Lawyers Association which was established only a year ago. I would like to begin my few words by wishing you all and your families a very happy, healthy and prosperous New Year 2010.

Although our Association is very much at its infancy, it already has made a good progress towards achieving its objectives as outlined in this bulletin. It has been a real pleasure for me to be associated with the creation of this Association and to work with other fellow Nepalese lawyers residing in the United Kingdom. We have a long way to go to achieve the objectives of the Association but it has been a good start. We already have adopted the constitution of the Association, elected a new Executive Committee, have our own website and are in the process of registering it with the Charity Commission. I welcome the decision of the Executive Committee to put together some material to publish in a bulletin of the Association with a view to informing members of its past and current activities and future plans.

I have been encouraged by the degree of collegiality and cooperation that the members of the Association have displayed. Thanks to our collective endeavour a formal application has already been submitted to the regulatory authority of solicitors to enable those holding Nepalese law practising certificate to take the lawyer's transfer test to qualify as a solicitor in England and Wales. I wish the Association every success in this endeavour.

I thank everybody who has made a contribution to bring this new Association into existence and to promote its objectives. I also would like to thank the Executive Committee for appointing me as a Patron of the Association. I am honoured by this appointment and would like to assure you all that I would do all I can to assist you to materialise the worthy objectives of the Association.

Professor Surya P. Subedi
Patron, BNLA



Message from Chair

Greetings and Best wishes for New Year 2010. We are a year old this month and this year has been quite enthusiastic for Britain Nepal lawyers Association as we have advanced towards our goal though we have a long way to go. I feel, the first step is always important and we have taken that step.

You all are aware the fact that we have applied to register ourselves as a charity and the process is underway. We have also been able to co-ordinate with Nepal Bar Council to submit initial application to the Solicitor Regulating Authority of England and Wales for the recognition of Nepalese practicing lawyers so that our members becomes eligible to sit in "Qualified Lawyers Transfer Test". We also had an informal meeting with the Law Society of England and Wales in which we have received encouragement and assurance of help in our task. We are quite hopeful for the positive result from this outcome meeting.

To achieve success in getting recognition for QLTT is not the only objective of BNLA but also to foster cooperation and to contribute on the issue Human Rights and Rule of Law wherever we are. Also most importantly, cooperation between British and Nepalese lawyers is essential to develop platform between two legal jurisdictions. We have already taken step to establish such cooperation with the Law Society of England and Wales.

I had an opportunity to meet and discuss about possible cooperation with various organisation and people including the then chief justice of Nepal Rt. Hon. Min Bahadur Rayamajhi, Hon. Justice Dr. Ananda Mohan Bhattarai, Mr. Bishwo Kanta Mainali, the then president of Nepal Bar Association and so many delegates of Non-Resident Nepali Association, during my visit to Nepal in last September. I found everyone very much positive and enthusiastic about what we are trying to do. I thank to Rt. Hon. Chief justice Rayamajhi, Hon. Justice Dr. Bhattarai and Mr. Mainali for their continuous support and help in submitting the SRA application on behalf of all of you. Some other people such as Mohan Sagar Basyal – government Attorney and Advocate Hari Phuyal were also instrumental and our thanks goes to them as well.

Finally, I thank everybody for all of your support and expect continued support in future. Please remember, we need to be united to achieve success in our mission

Raju Thapa, LL.M (Solicitor)
Chair, BNLA

An interaction with Rt. Hon Chief Justice Min Bahadur Rayamajhi.

June 12, 2009

Britain Nepal Lawyers Association (BNLA) organised an interaction program to welcome Rt. Hon Chief Justice Min Bahadur Rayamajhi, Hon. Justice Dr. Ananda Mohan Bhattarai and Mr. Binod Sharma, Joint Registrar of the Supreme Court of Nepal, at Nepal Embassy London.

Speaking at the reception, Rt. Hon. Chief Justice expressed his commitment towards rule of law and judicial activism for the protection of civil rights in Nepal. Hon. Justice Dr. Bhattarai answered some question raised by the participants and also gave his thoughts about possible cooperation between BNLA and legal community in Nepal. The distinguished guests were presented with the constitution of the Britain Nepal Lawyers Association (BNLA). Prof. Surya Subedi, OBE, chairman of the Association, thanked distinguished guests as well as other participants.

BNA Appoints Advisers of the Executive committee.

The meeting of the executive committee of the Britain Nepal Lawyers Association (BNLA) has decided to appoint Mr. Sunil Adhikari and Mr. Prem Bahadur Gurung as advisers of the association. The executive committee is thrilled by positive commitment of the newly appointed advisers in achieving the goal of the organisation. We hope to advance more after the appointment of the advisers.

BNLA Welcomes Co-opted Members of the executive committee

The executive committee of BNLA has also decided to co-opt Mr. Prakash Pokharel and Mr. Mahesh Dahal as member of the executive committee pursuant to the constitution of BNLA.

BNLA Chair Raju Thapa and member Shivaji Shrestha Apointed as adviser of NRNA

Congratulation to Mr. Raju Thapa and Mr. Shivaji Shrestha for their appointment as adviser of Non-Resident Nepali Association, UK. We hope NRNA will be benefitted from both of them.

Code of Conduct for Members.

Many members of the BNLA has raised issue of a "code of conduct" of the members. The executive committee ifs working on that at the moment. The draft code of conduct will be available in the website shortly. Please check and give some feedback so that we can finalise the code of conduct.

Future Events.

The executive committee is planning to organise talk/training program in association with Law Society. We will inform you about this in near future.

BNLA Team meets Law Society of Engand and wales.

In an attempt to develop a cooperation, a team of BNLA comprising of its Patron Professor Surya Subedi, Chair Mr. Raju Thapa and Vice Chair, Mr. Devendra Sinh Shrestha had a meeting with members of Law Society of England and Wales on 20 Nov. 09. The meeting was very productive. In the meeting Anne Wittman from Law society explained that QLTT rules are being reviewed and the new rules are expected to come out next year in fall. She also welcomed us to the Law Society's bilateral network promised to provide their venue free of cost in the event that we need such a venue.

New Jurisprudence.

Brightwater Care Group (Inc) v Rossiter [2009] WASC 229

This decision of the Supreme Court of Western Australia (by Chief Justice Martin) on 14 August 2009 might interest our members.

In this case Brightwater Care Group (Brightwater) operates a residential care facility in Perth for people with disabilities. Mr Christian Rossiter (Mr Rossiter) is a resident of the Brightwater facility. Mr Rossiter is quadriplegic and is generally unable to move. He is only able to talk through a tracheotomy. He is unable to take nutrition or hydration orally. The nutrition and hydration Mr Rossiter requires to survive is provided by way of a tube inserted directly into his stomach.

Mr Rossiter indicated to his doctor and representatives of Brightwater on many occasions that he wanted to die. He directed staff of Brightwater to discontinue the provision of nutrition and hydration through the tube to his stomach. If the staff comply with Mr Rossiter's directive, he will die from starvation.

This case is different from other cases in that Mr Rossiter is not terminally ill, or dying. He can communicate his wishes and has full mental capacity. Brightwater commenced legal proceedings seeking declarations about its rights and obligations. It was concerned that complying with Mr Rossiter's directions might result in criminal prosecution.

After reviewing the position at common law and the relevant Western Australian statutory provisions, Chief Justice declared:

"If after Mr Rossiter has been given advice by an appropriately qualified medical practitioner as to the consequences which would flow from the cessation of the administration of nutrition and hydration,. Mr Rossiter requests that Brightwater cease administering such nutrition and hydration, then Brightwater may not lawfully continue administering nutrition and hydration unless Mr Rossiter revokes that direction, and Brightwater would not be criminally responsible for any consequences to the life or health of Mr Rossiter caused by ceasing to administer such nutrition and hydration to him."

Blue Diamond Society V. Government of Nepal.

In this case, the Supreme Court of Nepal issued a directive order to the government for the elimination of all forms of discrimination against lesbian and guy community. The extract of decision might be of the many members.

- In relation to the issue of equality, directive order has been issued to the Government of Nepal to enact new laws and amend all existing discriminatory laws so that all individuals with different sexual orientations and gender identities can exercise equal rights like any other citizens of Nepal.
- A seven-member committee to be formed by the government of Nepal to study the different same sex partnership/marriage bill/act in other countries and recommend the government to make same sex marriage/partnership act. Based on the recommendation of this committee, the government must introduce a same sex partnership/marriage act.
- The decision also addressed "cross dressing saying can't be taken as "pollution" but should be taken as individual's freedom of expression.
- All LGBTI must be defined as "natural persons" and their physical growth as well as sexual orientation, gender identity, expression are all part of natural growing process. Thus equal rights, identity and expression must be ensured regardless of their sex at birth.

Member News

Dear members, please send us your news of professional advancement (Not about family gathering /birth etc)

Articles / Informations.

Dear Members, Please send us your article, information which might be interest of other BNLA members. Please send your article information to either Dipesh Shrestha or Yog Upadhyay.