

# **Program Completion Report on**

Strategic Intervention for Ensuring Dalit Rights in the Provinces

9-10 December 2019

Bharatpur, Chitwan

Dignity Initiative

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## **1. Introduction**

There are 32 Members of Parliament representing the Dalit community in the provincial assemblies. Their major mandate is to formulate laws to enact constitutional provisions. They also have a say in resource allocation while implementing the policies and programs directed by the law. Two years have been already passed since the provincial parliaments assumed their work, it's high time to review the laws from Dalit's perspective and discuss challenges faced by the MPs to this effect. Drawing the conclusion from this experience, it is also high time to formulate collective strategies to intervene in the remaining tenure. This conference largely served this purpose.

This conference also envisioned bringing all MPs together and learns from each other's experiences. They can also replicate best practices and find collective solutions to their common problems. Since the majority of the MPs are new to the parliamentary system and procedure, this conference also intended to orient them with the concept and application of delegated legislation and government assurance. The importance of the parliamentary committee and the use of different parliamentary tools are equally essential. This was an attempt to bring more conceptual understanding among the MPs and discuss practical insights they gathered so far.

Therefore, Dignity Initiative (DI) in partnership with the Parliamentary Support Program of the United Nations Development Program (PSP/UNDP) held 2 days residential program from 9-10 December 2019 in Bharatpur, Chitwan. The conference has largely met the intended objectives.

## **2. Objective**

- a) To share the provincial status on Dalit rights in the enacted laws and policies of all provinces after implementation of the Constitution of Nepal.
- b) Orient about the concept and use of delegated legislation and oversight role of parliamentary committees
- c) To identify the challenges encountered by the Dalit MPs in lawmaking and policy formulation processes in the province
- d) To develop a concrete and practical strategy for an effective intervention in the province to ensure Dalit rights.

## **3. Activities**

The program was started with the objective sharing by the Dignity Initiative chair J B Biswokarma, who highlighted the need of the program for the enhanced performance of the Dalit MPs in the provincial assemblies. UNDP/PSP representative Mr. Dila Dutta Pant expressed his gratitude for being able to support this noble cause. He requested the participants to come up with the strategies to claim their rights as guaranteed in the constitution.

### 3.1 Opening session

Dalit leader Bishwabhakta Dulal "Aahuti" delivered a keynote speech entitled the future course of Dalit movement in Nepal. He criticized the existing electoral system saying that it has curtailed the proportional representation system which was introduced to ensure the marginalized group's representation in the state mechanism. He further pointed out that the political parties used it as a tool to restrict Dalit candidates to get elected from the first-past-the-post system.

Talking about the parliamentary system, he told that there are two ways to be connected with the people. The first is an issue and the second is development projects. The system has barred MPs elected from the proportional electoral system to be connected with the people owing to the discriminatory provisions between the MPs elected through proportional and FPTP electoral system. Dalit MPs have been restricted to be in touch with the people in the issues only.

He also cited some historical anecdotes and experiences of India to justify that mere representation don't yield result. In India, Dalits have been representing in the parliament for the last more than 50 years but not even a single Dalit MP has ever registered bill on Dalit rights. Therefore, he emphasized the need for meaningful participation of Dalit in the state mechanism.

In the present political set up, he proposed two strategies. First, the establishment of the formal forum of the MPs representing the Dalit community in the province is the need of the hour. Second, a separate mechanism should be established outside the parliament to exert pressure upon the government and the political parties. He urged Dalit political sister organizations to take the lead to this effect.

### 3.2 Experience sharing

The provincial assembly spent the last two years formulating new laws and policies to enact constitutional commitments. Altogether there are 32 MPs representing the Dalit community in the provincial assemblies. Among them, 17 MPs were present in the program. They tried to review the formulated laws from Dalit's perspective and discussed the struggle and challenges to push the pro-Dalit bills forward. MPs from the province 1 and 7 didn't attend the program due to some technical problems at the eleventh hour. However, an attempt will be made to share the conference outcome and request them to be part of this initiation.

Among all provinces, **province 2** appears to have made remarkable progress in terms of formulating laws to ensure Dalit rights. The province has recently passed the Dalit Empowerment Bill, which has ensured the proportional representation of Dalit in the state mechanism. It has also envisioned a committee to monitor the caste-based discrimination and untouchability under the leadership of chief minister at the province and heads of the rural municipality or municipality at the local level. What actually prompted the province to pass Bill?

Hon. Sundar Bishwakarma, one of the prominent MPs and architects of the bill, mentioned that there was excellent coordination between the MPs representing the Dalit community and Dalit CSOs representatives outside. The CSOs discussed the drafted bill extensively in all districts and provided feedbacks to the MPs. At the same time, they also carried lobby and advocacy at the multiple levels to get this bill through the assembly. According to Mr. Bishwakarma, they have also formed an informal forum of Dalit MPs in the parliament to discuss issues regularly and present Dalit's position. He also suggested other MPs to seek Dalit angle in all Bills presented in the parliament and form an alliance of Dalit MPs in the assembly.

One of the unique achievements of the province No 2 is that they have ensured 18 percent seats for Dalit in the police and public sector jobs. In each cluster, they have allocated 50 percent seats to the women of the respective cluster. This empowers women and ensures their numerical strength in state affairs.

In the **province 3**, there are only 2 members of parliament in the assembly. They shared their experiences as an MP elected through the proportional system have been restricted heavily. According to them, many Bills have been formulated and passed in the province over the last two years; however, none of the bills talks about Dalit issues. In some cases, they are not even consulted for the issues for which they were elected. Another Member of Parliament of the same province, Hon. Kalpana Nepali mentioned that they are ridiculed for raising the issues of Dalit all the time. She expressed the need for cooperation from the non-Dalit MPs to get their bill through. In summary, province No. 3 has a relatively low representation of Dalit in the assembly. They are 2 representatives representing two different political parties. Their experience tells that other parties seem to have ignored Dalit issues.

While talking about **Gandaki province**, Hon. Juna Nepali mentioned that there is no specific Dalit Bill tabled in the assembly. However, they tried to seek the concerns of Dalit while discussing the issue in the assembly. No discussion takes place among Dalit MPs, owing to their different political ideologies. Neither have they lodged any amendments collectively yet. There is a legislative committee in the assembly; Dalit MPs often take their issues in this committee. "It is unfortunate that the budget of the previous year was entirely silent on the Dalit, and we were helpless." opined Juna Nepali. However, for this fiscal year, they are able to persuade to allocate some budget to run a campaign against caste-based discrimination at the local level. The fund will also be utilized to modernize the traditional occupation of Dalit. She accepted the fact that there is stark discrimination between the directly elected MPs and the MPs elected through the proportional electoral system.

Another MP of the Gandaki province Hon. Dobate Bishwokarma said that more than 25 bills have been passed so far, none of them have addressed Dalit issues. Bureaucracy drafts the bill and they seem to be more dominant to get it through. They are also reluctant to formulate Dalit friendly laws. There is no discussion among Dalit MPs and they also lack knowledge of the parliamentary tools and procedures. He also complained about the trend to allocate a sizable

budget in the constituencies where the parties have a relatively better stronghold. The bills and the laws in the province are not Dalit friendly.

Similarly, the **province 5** has a relatively low Dalit population. Many Bills have been formulated over a period of 2 years, but none of them address Dalit issues directly. However, they were able to do some achievements in practicality. The Government has decided to offer a 50 percent discount for Dalit in land ownership transfer. The provincial government has also allocated 20 million Rupees for Bhagat Sarbajeet Foundation, and this has been already distributed in all districts of the province. A lot of discussion takes place on the Constituency Development Fund, but it alone doesn't yield any result. When the note of dissent is applied, things tend to work. However, they are not able to allocate the intended budget. They have realized that a single MP can't do much; it requires a coordinated effort of MPs irrespective of their political affiliation. There is a growing tendency that Dalit issues are only raised by the Dalit MPs. Other MPs seem to be indifferent to this issue.

"We spent the first year to learn. During these two years, 52 bills have been drafted and 48 have been approved. Dalit bill has not been tabled yet." opined Hon. Reena Nepal. In the bills, the concerns marginalized issues have been included except Dalit. Other MPs have a poor understanding of Dalit. They paint the picture of revolt while only raising the issue of Dalit. It's difficult for MPs to get a rented room. Political clout is strong that the budget allocated for a single organization is larger than the budget allocated for the entire Dalit community in the province.

Finally, it's about the Karnali province. There are 5 MPs from the Dalit community. There is no formal forum for Dalit but all go together when it comes to the issues of Dalit. They have developed a combined letterhead. This makes voice collective and authentic. Hon. Sita Nepali, who also represented Dalit in the second constituent assembly, is an experienced lawmaker and has been applying her experiences to ensure Dalit rights in the Karnali province. They have the experience of lodging amendments to make the changes. She is also the whip of the party and this has also helped her to take the lead. They have declared many municipalities and rural municipalities free of caste discrimination. They have allocated budget for Dalit, probably the highest among the provinces, but it has a weak implementation record. The budget is spent but has not yielded any results. Hon. Dan Singh Pariyar indicated the need for regular discussions to learn from each other's experiences and seek solidarity to pass the Dalit bill from the provinces. He applauded the province 2 for setting a record and reference to follow for them. Another MP of the province Hon. Rato Kami demanded the urgent need of Dalit's representation in the provincial cabinet. People have placed huge responsibility upon the representatives at the local level, but they are tied to the very limited choices and resources." he quipped.

### **3.3 Orientation on Delegated Legislations and Govt. Assurance**

The primary role of the parliament is to formulate laws. This is the supreme power of the parliament. However, this is being delegated to the government or other institutions. The delegated legislation refers to those laws made by persons or bodies to whom the parliament has delegated lawmaking authority. Such an institution and people are eligible to make regulation, rule, ordinance, bylaws, orders and statutory instruments. NC leader and a noted law expert Ramesh Lekhak oriented the MPs about the different aspects of delegated legislation and its impact upon the marginalized communities.

Since this is relatively a new concept, it roused an unprecedented level of curiosity and questions among the MPs. The presenter meticulously explained how the national constitution and the authority of each province attract this legislation. After the orientation, the MPs collectively reiterated that they would make a regular follow up of the delegated authority and intervene if found misused.

This practice is likely to curtail the rights of marginalized groups. This topic was included in the program to bring more conceptual clarity about this provision and its implications.

### **3.4 Role of parliamentary committee and tools to claim rights**

Since most of the MPs are inexperienced in the parliamentary procedures and tools, this session was more focused on acquainted them with the strategies and tactics of using parliamentary procedures and tools. First, the importance of the parliamentary committee was shared; the participants also shared their first-hand experiences. Second, the session was focused on the effective use of parliamentary tools. It was found that handful MPs have used the tools so far. It was made clear that there is no need to fall under the clout of political influence while using these tools.

This session was focused on the exchange of experiences, learning, and review of the parliamentarians. They also shared their experiences of parliamentary practices and learning. Constituent Assembly member Mr. Prashu Ram Ramtel, facilitated this session.

### **3.5 Formulation of collective strategy**

The previous day, the discussion was more focused on identifying the challenges faced by the MPs. Based on that, the participants were divided into groups for an intensive discussion on future strategies. Journalist and researcher J B Biswokarma stimulated the discussion by connecting the dots of challenges shared by the participants. Following strategies have been proposed to intervene:

- Province No. 2 has made remarkable progress in terms of making laws from Dalit's perspective. It passed the Dalit Empowerment Bill and struggling to make sure the proportional representation of Dalit in the provincial police act and public service bills.

Therefore, other provincial Dalit representatives agreed to replicate this in their provinces. If the government is reluctant to take the lead, the provision of the private bill can also be used. To this end, the MPs of the province 2 agreed to share their experiences and provide technical support to this end. The MPs should discuss bills extensively among the stakeholders; seek the technical support from the law experts within and beyond the parliament. Dalit political sister organizations can also lobby and advocacy with the government to this effect. An attempt should also be made to seek the support and solidarity of the pro-Dalit MPs in the parliament.

- All MPs representing different political parties agreed to the need for the establishment of the formal forum of the Dalit MPs to hold a regular discussion and prepare a collective Dalit voice in the assembly. The MPs also principally agreed to form a similar mechanism across the provinces. They will seek a Dalit angle in all the bills presented in the assembly and take it for wider discussions. They will play an active role in pushing pro-Dalit laws in the assembly.
- The provision of "Delegated Legislation and Government Assurance" is likely to curtail the rights of the marginalized groups like Dalit. Therefore, the MPs reiterated their commitment to making a regular follow up of the delegated legislation and make sure that their rights are fully addressed.
- Since most of the MPs representing the Dalit community lack the experience of parliamentary procedure, a separate mechanism is envisioned to create a forum of a member of both constituent assembly and former MPs to utilize their experiences and expertise to make Dalit friendly laws.
- Dalit movement should provide consolidated support to the MPs representing in the provincial assembly and apply tools to amend the constitution and electoral system in order to ensure Dalit's meaningful participation in the decision making level.

#### **4. Challenges**

During the discussion, the following challenges were explored:

- Most of the Dalit MPs have been elected through a proportional electoral system and are experiencing discrimination by the system. The role of MPs elected through the proportional electoral system has been minimized to access the fund from Members of Parliament Local Area Development Scheme (MPLADS). Their voices are not heard seriously.
- There is no Dalit representation in the state cabinet. This also posed a challenge to mobilize resources and budget in favor of the Dalit community.

- Some Dalit MPs are unaware of the issue to be raised in the parliament. They are also reluctant to speak sometime. Generally, no discussion takes place from Dalit's perspective. There is no coordination among Dalit MPs, very often they treat each other ruling and opposition party.
- The members of the legislative committee in the parliament do not heed to the Dalit MPs. As a result, they are not able to push concerns about Dalit issues in the tabled bills.
- Owing to the pressure from the political parties they represent, Dalit representative couldn't speak up on some crucial issues, such as the cut-off of Dalit seats in the vacancy of the PSC.
- Most of the MPs are unaware of the importance of the parliamentary committee as well as the use of the parliamentary tools. The majority of them have not used them at all.

## **5. Conclusion**

This is a first-of-its-kind program in Nepal. The MPs representing the Dalit community in the provinces gathered in a single platform and reviewed their work so far. They also discussed the challenges faced during the lawmaking process. Based on the challenges, they explored common strategic ways to intervene.

MPs alone can't do much. For their role has been restricted in many ways. Therefore, strong unity among Dalit MPs of the various political parties is the need of the hour. The role of the CSOs beyond the parliament is also equally important to get the bill through the parliament. Drawing the inspiration from the province no. 2, the MPs should take the tabled bill for wider discussion and seek Dalit angle. They should also approach the lawyers and experts to discuss different aspects of the bills and pitch their arguments effectively. The role of members of both constituent assembly and the former MPs of the Dalit community is also essential to amplify the voices of the Dalit.

This conference has identified some areas for strategic intervention. However, it demands a robust workshop to prepare a detailed action plan to give it a concrete shape. This can help to pass the Dalit Bill from all provinces. Having said that, the role of the federal parliament is also catalytic. If the federal parliament passes the Dalit bill as soon as possible, this will encourage the province to follow suit.

It is obvious that the MPs require regular backstopping to enhance their role and effectiveness in the assembly. To this end, wider discussions on drafted bills, make a pitch in the parliament and mobilize networks are vital in the lawmaking process. Therefore, the donor, as well as the CSOs, should direct their support and channelize resources to this end.