

GOOD GOVERNANCE, LAW MAKING & JUSTICE DELIVERY IN PROVINCE 2

(REPORT OF THE ACTIVITIES- 2020/21)

**Parliamentary practice, democratic and inclusive
law making process at province level**

**Effective service delivery at
province level – federal perspective**

**Judiciary service delivery: expectations and
role of province and local government**



- Published Date
2021 April

- Quantity
1000 copies

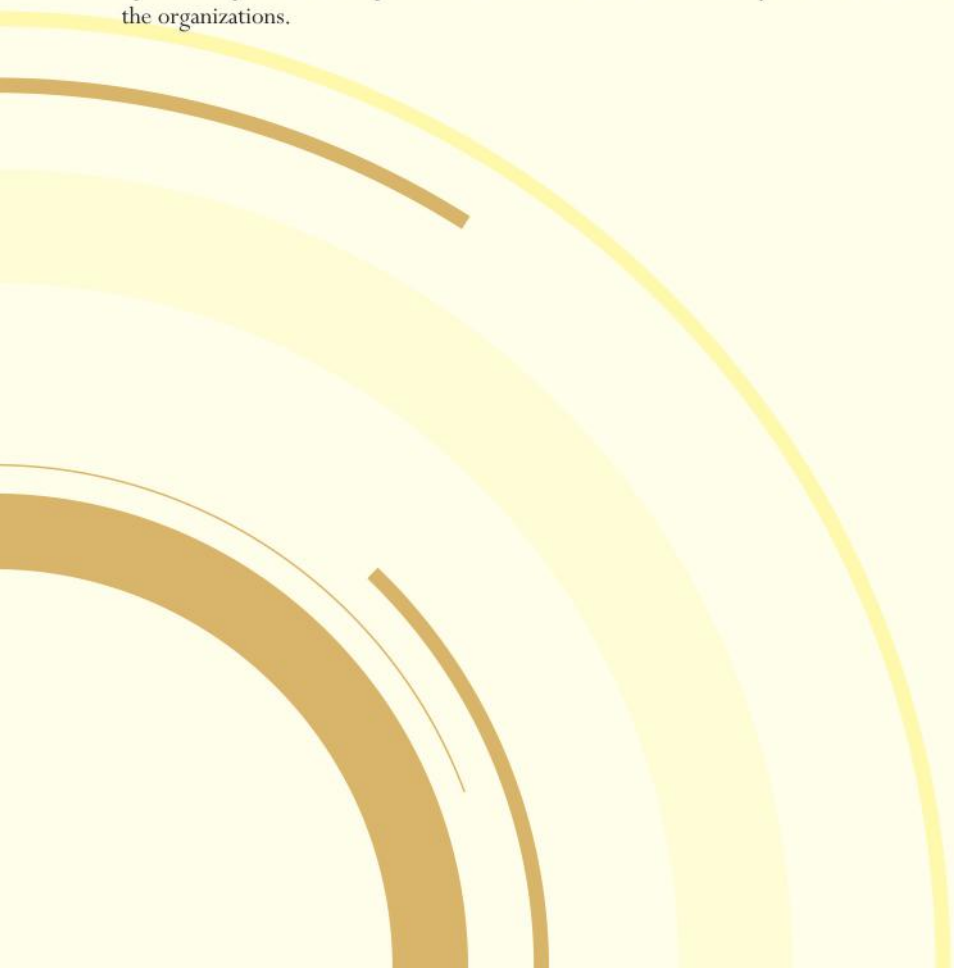
- Publisher
Nepal Law Society

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- Printer
National Graphics
Nayabazar, Kathmandu

- Publication Support
पुस्तक प्रकाशनको लागि एम्बेसी अफ स्विट्जरल्याण्ड इन नेपालबाट प्राविधिक र आर्थिक सहयोग उपलब्ध भएको छ। पुस्तकमा व्यक्त विचार तथा निष्कर्षहरूले एम्बेसी अफ स्विट्जरल्याण्ड इन नेपालको आधिकारिक धारणालाई प्रतिनिधित्व गरेको मानिने छैन।

We would like to sincerely thank Embassy of Switzerland in Nepal for their financial and technical support. The opinions expressed in this publication are those of the authors. They do not reflect the views of the partnership or the organizations.



The new constitution of Nepal promulgated by the elected Constituent Assembly (CA) in 2015 has transformed Nepal from unitary to federal state with three distinct tiers of governments – at federal, province and local level. They have also been bestowed with executive, legislative and some judicial powers. In particular, the structures of provinces are new ones for Nepal. There are seven provinces altogether.

The matter of federalism itself is relatively new in Nepal. This method of governance was adopted as a result of people's movement, and Madhes movement in particular. Out of the seven provinces, the Province 2 is predominantly in the Madhes region and is one of the most ardent proponents of federal system of governance.

In these initial period, the adoption of federal system of governance have faced a number of challenges. The smooth implementation of federalism as per the constitution is vital for the success of the constitution. The operation of federalism and governance in Province 2, therefore, is crucial for the effective and successful operation of the constitution itself.

As such, the Nepal Law Society (NLS) joined hands with the Embassy of Switzerland in Nepal last year to provide technical support to the Province 2 – based on their demands. There were three components to this support – workshop with the provincial government, provincial assembly and province-level agencies of judiciary.

The project involved a lot of planning and participatory workshop that were led by the stakeholders themselves to strengthen the good governance, law making and judicial service delivery through improved coordination and collaboration.

The NLS is thankful to the Embassy of Switzerland in Nepal as well as Province 2 stakeholders including the Chief Minister, Speaker of the Assembly, High Court Judges for their role and contribution. The NLS also thanks former Deputy Prime Minister and senior leader Mr. Upendra Yadav and former Chief Justice Mr. Kalyan Shrestha for their active participation and facilitation.

Despite the challenges brought upon by Covid-19 pandemic, we were able to safely conduct the programs and activities.

The NLS is glad to bring out this report in a book form that includes the programs, activities and achievements from the project.

Tirtha Man Shakya
Chairperson, Nepal Law Society

2021 April

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The Constitution of Nepal 2015 ushered the federal system of governance in the country. The country is currently in the process of implementing the constitution consolidating inclusive democracy through good governance and effective service delivery.

For the first time, the constitution adopted the three-tier governance system – federal, province and local level. Each of the three tiers have been empowered and provided with executive, legislative and some judicial powers. Particularly, the provincial system is quite new for Nepal. The constitution divided the country into 7 provinces. Each provinces are governed by elected provincial governments that have constitutionally-designated executive powers. They also have assemblies that function as provincial legislatures. Judiciary has been left as unitary structure by the constitution. But there are High Courts and District Courts that are functional in the provinces.

Out of the seven provinces, Province No. 2 cover seight districts that largely constitute of Terai – Madhesh region. The people from Madhesh were keen to institutionalize federalism in the new constitution. There was people’s movement in Madhesh that resulted in amendment in interim constitution. Even now, the key political parties in the region have continued to demand further amendments in the constitution regarding various aspects of federalism. In a sense, federalism was a key demand of this region and the success of federalism is very close to the heart of this region. As such, the leaders and parties of the region are profoundly concerned about the successful implementation of the constitution, and consolidation of federal system of governance. The Province No. 2 government, assembly and the judicial agencies have been keen on improving the governance and service delivery for the benefit of the people and to keep the constitution implementation on right track. They requested technical support in the area of reforms and coordination in the governance, law making and judicial service delivery.

In this connection, the Nepal Law Society (NLS) joined hands with the Embassy of Switzerland in Nepal to support the implementation of the constitution by helping the Province No. 2 in the afore-mentioned areas through support to policy/law making, strengthening governance and enhancing the judicial service delivery in partnership with the concerned stakeholders. The NLS has a long experience of facilitating the policy support programs by mobilizing experts and stakeholders.

For this purpose, the NLS conducted series of formal and informal meetings with the stakeholders to identify the key areas where they needed expert assistance. The key objectives of this intervention, thus, were set out through discussions with the stakeholders themselves.

Thus, major objectives were identified as improving the state of governance through discussion on policies and programs of provincial government; role and challenges of provincial government on law making in federal framework; and role of provincial government for

law making on criminal issues as per the federal framework. Likewise, it aimed to support the increased effectiveness of the provincial assembly on democracy, parliamentary practices and law making on criminal issues. For ensuring effective implementation of laws formulated by province and local level and for discussing the roles and challenges of province-level judiciary in the new constitutional set up, it also aimed to bring together judges of High Court and concerned District Courts, and court officials of Province 2. The project facilitated their dialogues with officials of provincial government.

In order to achieve the afore-mentioned objectives, the project organized a series of planning meetings (six) last year. It also conducted three need assessments and issue identification meetings. Three separate workshops were also conducted. First one was the workshop on Parliamentary Practice, Democratic and Inclusive Law Making Process at Province Level. It was followed by the workshop on Effective Service Delivery at Province Level – Federal Perspective; and the workshop on Judiciary Service Delivery: Expectations and Role of Province and Local Government. Subsequently, five review meetings were also conducted during the project period.

There were participation from key stakeholders including the Chief Minister, and almost all ministers of Province 2 Government, Chief Secretary, staffs of secretaries, Speaker of the Provincial Assembly, committee chairpersons and members, as well as High Court and District Court judges. Former Deputy Prime Minister of the government of Nepal and senior leader of Janata Samajbadi Party Mr. Upendra Yadav was present in all the workshops. The presence of former chief justice Mr. Kalyan Shrestha; chairperson of Legislation Management Committee of the federal parliament Mr. Parshuram Meghi Gurung; chairperson of National Natural Resources and Fiscal Commission Mr. Balananda Poudel, and Professor Mr. Uma Shankar Prasad helped in open and fruitful discussions that were solution-oriented. The presence of high-level officials of the provincial government secretariat and discussions on key subjects resulted in their important suggestions, feedback for coming days. Dialogue between province-level judicial officials/judges and Province 2 Chief Minister and Ministers was also conducted for the first time. Issues and challenges relating to law making, the content of law, their implementation, the state of coordination in governance, ways of overcoming the challenges, ways of smoothening the relations between government and judiciary were extensively discussed. The stakeholders exchanged their views, positions and expressed commitment to work together in better coordinated manner. The also stakeholders appreciated the facilitation by the project through such a unique intervention.

In the coming days, the NLS would like to pursue some of the areas identified during this period such as supporting the policy dialogue for the institutionalization of federalism; capacity building of the Provincial Government, Assembly and Judiciary; capacity building of Province-2 Local Governments; and enhancing access to justice for marginalized communities.

❶ Background

The Nepal Law Society (NLS) and Embassy of Switzerland in Nepal joined hands to organize a number of programs in partnership with the Council of Ministers of the Government; Office of the Chief Minister, Secretariat of the Provincial Assembly of Province No. 2 and Judges of the High Court-Janakpur.

The programs were aimed at helping the provincial government by supporting the institutionalization of federalism; helping the provincial assembly to work as per the expectations of the constitution; and helping the judiciary in province 2 including the High Court and District Courts identifying the issues and challenges they have faced through the facilitation of interaction among judges, court officials and service-recipients as well as in promoting coordination between the courts and the provincial government.

The Province 2 is making maximum efforts to formulate laws as per the constitution. It has also filed over 10 cases at the Supreme Court in matters relating to inconsistencies with the constitution.

As such, the programs aimed at three-pronged outcomes by helping the province government improve its good governance and service delivery; helping the province assembly in formulation of necessary laws; and helping the judiciary to meet the public expectations in their justice delivery.

The NLS has been working to support the law making at central level since last four decades. Based on its experience and expertise, the NLS has joined hands with the Embassy of Switzerland in Nepal to support the Province 2 government, assembly and High Court through various programs. The brief description of the programs has been presented for the information of all stakeholders.

The project had three components – supporting the province government, assembly and the judiciary. With the purpose of discussing the parliamentary practice, democratic and inclusive law making, issues of constitutional interpretation and federal norms and the specific roles of the province government and province assembly in these matters. The NLS joined hands with the Province 2 Assembly Secretariat and Chief Minister's Office to organize interaction workshop on January 21 and 22 at Hotel Paawan Mithila in Bardibas.

The federal system in the constitution, and the legislative, executive and judicial practices at provinces, and their inter-relationship have become challenging and complex in the new constitutional set up. The practices adopted by Province 2, which is led by the community and the party that led the calls for federalism in the country, therefore, will be of keen interest to other provinces as well. Issues of coordination, coexistence and cooperation among various tiers of federal, province and local level; the horizontal and vertical relations between legislatures and executives, and effective operation of constitutional provisions need to be constructively discussed and debated for smooth implementation of the new constitution. Hence, this kind of interaction workshop helps in conducting serious review of the implementation of the constitution.

As per the Articles 56, 57, Part 20 and Schedules 6, 7, and 9 of the Constitution, there is a need to minutely discuss the effectiveness of the provincial government, the challenges it has faced, inter-relations of provincial government with federal and local level, and coordination. Likewise, the relations between provincial government and the assembly, matters of cooperation with province-level judicial institutions, too, need to be examined from the viewpoint of constitutional norms and spirit. It is also time to review opportunities and challenges faced by the provincial government.

The constitution has provided certain law making authority to the provincial assembly. It is necessary to assess the state of law making in province, the extent to which it has adopted public consultations, available technical capability on law making, state of implementation of laws, practices adopted by various committees, weaknesses, interventions by federal and issues of coordination and cooperation.

The interaction workshop organized by Nepal Law Society, in cooperation with the Embassy of Switzerland in Nepal, and in collaboration with Provincial Assembly Secretariat and Chief Minister's

Office was participated by former Deputy Prime Minister Mr. Upendra Yadav, former Chief Justice Mr. Kalyan Shrestha, Chief Minister of Province 2 Mr. Lal Babu Raut, Chairperson of Legislation Management Committee (LMC) of National Assembly Mr. Parshuram Meghi Gurung, Constituent Assembly member Mr. Khim Lal Devkota, Chairperson of National Natural Resources and Fiscal Commission Mr. Balananda Poudel, Professor Mr. Uma Shankar Prasad, ministers of Province 2 government, chairperson and members of Provincial Assembly, Committees, Secretary of Provincial Assembly Secretariat and other staffs, Executive Director of Nepal Law Society (NLS) and other staffs, chief and other staffs of Civic Initiative Center (CIC) of Janakpur, among others.

The third component of the project related to the Judicial Service Delivery and the Expectations/Roles of the Province and Local Government has also been recently completed. The interaction with the judges of the High Court of Janakpur, Birgunj and Rajbiraj as well as judges of District Courts of Dhanusha, Mahottari, Sarlahi, Siraha, Bara, Parsa, Rautahat and Saptari were attended in the interaction, which was held on March 20, 2021 at Hotel Paawan Mithila in Bardibas, Mahottari.

2 Objective

- To discuss policies and programs of provincial government; role and challenges of provincial government in law making in federal framework; role of provincial government on law making in criminal issues as per the federal framework to create environment conducive for smooth operation in the coming days,
- To support increased effectiveness on the role of provincial assembly in democracy, parliamentary practice and criminal law making,
- To support improvements on the role of assembly, committees and their members in carrying forward the provincial assembly in democratic manner,
- To discuss with stakeholders and solicit guidelines from experts by discussing coordination among federal, provincial and local level on law making, its challenges and opportunities,
- To discuss setting up basis parameters on coordination and dispute settlement mechanisms between province and local level,
- To discuss the contribution and challenges of province-level judiciary by bringing together judges of High Court, District Courts, and registrars of Province 2,
- To facilitate dialogue between judges/judicial officials and provincial government officials for effective judicial service delivery,
- To facilitate dialogue between judges/judicial officials and provincial government officials on ensuring effective implementation of laws formulated by province and local level,
- To facilitate dialogue on the role of judiciary in implementing federalism and in increasing public trust on judiciary,
- To review the concept of local level justice, as well as structure and performance of judicial committees formulating future strategy for effective service delivery,
- To review the status of access to justice for citizens of Province 2 and future strategy for its promotion.

③ Target Groups/Beneficiaries

Province Assembly

Speaker, Deputy Speaker, Chairperson and members of Committees, Chief Whips and Whips of various political parties, parliamentary party leaders, assembly members, staffs of provincial assembly secretariat.

Province Government

Chief Minister, ministers, state ministers, chief secretary, secretaries, deputy secretaries of the provincial government.

Judiciary

High Court Chief Judge, Judges, Registrar, District Court Judges and Court Officials, Chief Ministers, Minister, Chief Attorney,

④ Key Achievements/Outcomes

The project had three-pronged approach that dealt with the provincial assembly, the government and judiciary. The major achievements/outcomes of these approaches can be segregated as below:

Provincial Assembly

- Around 65 participants including almost all chairperson of the committees the provincial assembly, members, secretary and staffs were present full-time during the workshop,
- Program became effective with the presence of former deputy prime minister of the government of Nepal and senior leader of Janata Samajbadi Party Mr. Upendra Yadav; former chief justice Mr. Kalyan Shrestha; chairperson of LMC of federal parliament Mr. Parshuram Meghi Gurung; member of federal parliament Mr. Laxman Lal Karna; Chief Minister of Province 2 Mr. Lal Babu Raut and Speaker of Province 2 Assembly Mr. Saroj Yadav,
- Presence of high-level officials of the provincial assembly secretariat and discussions on 5 key subjects resulted in their important suggestions, feedback for coming days,
- Important feedbacks provided by the provincial assembly for the federal government
- Commitment on cooperation and coordination on law making between provincial government and the assembly,
- Increased expectation of coordination and cooperation among federal, provincial and local level on law making and service delivery,
- Created basis for improved law making process and standard due to important feedbacks on law making, parliamentary practices, coordination among three tiers, monitoring and implementation,
- Provided opportunities to correct weaknesses and lapses made in the past based on the experiences and practices of the assembly,
- Produced important reference material based on working papers prepared by experts on five topics.

Province Government

- Around 45 participants including Chief Minister, and almost all ministers, provincial chief secretary, secretaries and staffs took part in the workshop full time,

- Presence of former deputy prime minister of the government of Nepal and senior leader of Janata Samajbadi Party Mr. Upendra Yadav; former chief justice Mr. Kalyan Shrestha; chairperson of LMC of federal parliament Mr. Parshuram Meghi Gurung; chairperson of National Natural Resources and Fiscal Commission Mr. Balananda Poudel, and Professor Mr. Uma Shankar Prasad helped in open and fruitful discussions that were solution-oriented,
- Presence of high-level officials of the provincial government secretariat and discussions on key subjects resulted in their important suggestions, feedback for coming days,
- Received important feedbacks from provincial government to federal parliament and the government,
- Created basis for improved law making process and standard due to important feedbacks on criminal justice system, fiscal federalism, practice of Province 2, opportunities and challenges, parliamentary practices, coordination among three tiers, monitoring and implementation,
- Provided opportunities to correct weaknesses and lapses made in the past based on the experiences and practices of the provincial government,
- Produced important reference material based on working papers prepared by experts on six topics,
- Commitment made for increased cooperation and coordination between provincial assembly and provincial government on law making,
- Understanding reached to ensure presence of concerned ministers to inform about bills in the assembly and concerned committees.

Judiciary

- Around 65 participants including judges from High Courts and District Court covering Province No. 2 present at one place for the first time,
- Dialogue between province-level judicial officials/judges, Chief Minister and Ministers held for the first time,
- Uniformity in understanding reached among the judges regarding the implementation of the laws formulated by the provincial and the local level, and positive opinion formed among the judicial officials,
- Commitment made by the provincial government to support the judiciary in increasing public trust by providing resources as well as programs,
- Court and government agreed to work together to support local level judicial committees,
- Understanding reached to set up a model Province-level Judicial Service Training Center,
- Understanding reached to hold quarterly dialogue programs between court and the government.

5 Key Lessons Learned

- Planning and Coordination with high level leadership, chief minister's office, assembly secretariat and NLS resulted in high level and full time participation in workshops,
- Ease in ensuring participation, ownership and fruitful discussions due to participation by high level leadership,
- Need-based and demand-driven programs were highly effective,
- Participation becomes meaningful and effective once it is clear that one's feedbacks will be properly heard,
- Long and effective planning, appropriate facilitators and resource persons, and selection of proper content is necessary for effective program,
- Long discussions and preparations with the provincial government and assembly leadership helped in identifying content, resource persons and participants,

- Presence of Supreme Court justice and former chief justice helped in attracting large number of judges from the province,
- Presence of Chief Minister and ministers helped in attracting the participation by senior judges for full-time,
- Bearing travel and lodging cost helped in ensuring meaningful participation,
- Modality of participatory discussion helped in constructive dialogue,
- Selection of discussion issues through previous planning meeting helped in increasing the interest of the stakeholders,
- Selection of centralized location as venue was also helpful,

6 Key Challenges

- Due to Covid-19 pandemic, the programs that were designed a year ago were only possible to organize much later,
- Even though Provincial Assembly and Ministers are located in Janakpur, the programs had to be organized in Bardibas in order to ensure full time and active participation of key leaders and secretaries,
- With the involvement of senior leaders, chief minister, ministers, and speaker, it was challenging to manage time convenient for all,
- Huge pressure to complete workshop with sessions on six topics in a single day,
- Difficulty in management of time for senior government officials since they had to attend the program full-time,
- Since the workshop could cater to only 50-60 assembly members, many could not attend,
- Judges are not very open to participate in programs with political leaders and the government representatives,
- Although the program wished to cover all the district courts, some of the judges faced challenge in travelling long distance to the program venue in the absence of logistics/travel management from the project side,

7 Completed Activities

7.1. Advisory Committee

The project had formed an Advisory Committee composed of key stakeholders to provide policy guidance, planning, implementation and monitoring support to the project activities.

Objective

To plan, conduct, review, and monitor the project programs, and to strategize the future steps with the involvement of concerned key stakeholders.

Program

During the course of the project period, three meetings of the Advisory Committee were held. The meetings had specific agenda. The initial meeting focused on ways to conduct the programs, the invitees, and the content in order to maximize the impact. The other meetings also took stock of the feedback from the stakeholders and participants, as well as strategized about the future steps to enhance program effectiveness. The meetings regularly reviewed the programs and provided guidance to the project.

The Advisory Committee consisted of senior figures from the stakeholders and carried weight in their respective areas.

The members of the Advisory Committee were as follows:

●	Mr. Tirtha Man Shakya, Chairperson, Nepal Law Society
●	Mr. Kalyan Shrestha – former Chief Justice
●	Mr. Subas Chandra Nemwang – Former Speaker
●	Mr. Upendra Yadav, Former Deputy PM
●	Mr. Lal Babu Raut, Chief Minister, Province -2
●	Mr. Saroj Kumar Yadav, Speaker, Province -2 Assembly
●	Mr. Radheshyam Adhikari, Member, National Assembly
●	Mr. Anil Kumar Sinha, Justice, Supreme Court
●	Ms. Sapana Pradhan Malla, Justice, Supreme Court
●	Mr. Prakash Man Singh Raut, Justice,
●	Mr. Laxman Lal Karna, Member of Parliament
●	Ms. PushpaBhusal, Member of Parliament
●	Mr. Deependra Jha, Chief Attorney, Province-2
●	Prof. Uma Shanker Prasad, Expert
●	Mr. Krishna Man Pradhan, Executive Director, Nepal Law Society

Achievements

The guidance by the Advisory Committee with its key senior members was practical and had maximum impact given high level of participation in project workshops with constructive feedback and commitments from the responsible agencies.

The project programs were constantly reviewed and revised, where necessary, to suit the overall project objectives and changing situation on the ground, particularly the pandemic situation.

The conclusions reached in the workshops were internalized and embraced by the government of the Province No. 2, assembly and the judiciary.

7.2. Planning meetings

The Nepal Law Society (NLS) and the Embassy of Switzerland in Nepal held a series of planning meetings with each other and also by inviting the stakeholders before, and during the project programs in order to ensure best outcomes from the workshops with the government of Province No. 2, assembly and the judiciary.

Objective

To identify the needs of the target groups, existing achievements, review their constitutional obligations and compare it with the present situation.

Program

A series of planning meetings were conducted during the course of the project including initial planning workshop to share the concept note along with the planned activities; to seek feedback from the

stakeholders on the concept note and activities; and to prepare a detailed plan for the implementation. Likewise, there were planning meetings with the chief minister, speaker, senior political leader of Province 2, as well as senior judges to identify actual needs and provide policy guidance. The meeting also helped to update and adjust the project activities in view of coronavirus crisis; and to plan for the safe project activities with the key stakeholders.

Achievements:

The planning meetings helped to reach understanding conducting the programs and activities jointly with the target group themselves such as the government of the province, assembly and the judiciary.

It helped to identify the concrete issues for the discussion and ensure full time participation by the stakeholders in the workshops. (The detail minute is given in Annex-1)

7.3. Need Assessment with Beneficiaries

Following the planning meetings and its suggestions, proper need assessment efforts were carried out with the beneficiaries in order to ensure that the focus of the programs do not digress.

Objective

To finalize the content for discussions in the workshops with the involvement of the target group; to ensure that the program is need-based, and wholly owned; to identify the participants and resource persons; and to conduct workshop jointly.

Program

A field visit was organized in Janakpur to hold meetings with major stakeholders including government, provincial assembly and judiciary. During the course of field visit, the project team held discussions with the Province - 2 government on the state of good governance, contribution to federal structure, challenges and opportunities, and to determine resource person for facilitating programs. The team also discussed with the Province - 2 Assembly on the contribution, challenges and opportunities of law making, and to determine resource person for facilitating programs. Likewise, the team also discussed with the stakeholders of judiciary from Province - 2 on their contribution, challenges and opportunities, and to determine resource person for facilitating programs.

During the meeting with the Province 2 government, the tasks carried out by the provincial government in the last three years were reviewed in order to discuss ways of improving the good governance, service delivery and development for the fulfillment of aspirations of the people. The meeting was held jointly by the Chief Minister's office and the Nepal Law Society. Chief Minister, ministers, provincial Chief Secretary and secretaries of all ministries of the Province 2 government participated in the meeting. There were 25 participants altogether.

The Chief attorney of the Province Number - 2 Mr. Dipendra Jha and senior advocate Mr. Khim Lal Devkota highlighted on the review of the works performed by the province in the past three years and spoke about the challenges, the province faced. They also shared the achievements made in the development sectors such as education, agriculture, administration, law and order and legislative process. In short, their paper highlighted executive, legislature and judiciary constraints, challenges



and opportunities. Professor Uma Shankar Prasad; former chief justice Mr. Kalyan Shrestha and Chief Guest former Deputy Prime Minister Mr. Upendra Yadav shared their feedbacks and suggestions.

In the second leg of the field visit, discussions were held on the contributions, challenges and opportunities of the Province Assembly in course of its law making in the past three years. The discussions were held with the presence of Speaker, Deputy Speaker, chairpersons of various committees of the provincial



assembly, and chief whips and whips of different political parties. The meeting was held jointly by Provincial Assembly and Nepal Law Society. The meeting was chaired by the Speaker of the Assembly Mr. Saroj Yadav. There were 23 participants altogether.

The Chief Minister of the Province Number - 2 Mr. Lal Babu Raut was the chief guest at the meeting. Former Deputy Prime Minister Mr. Upendra Yadav and former Chief Justice Mr. Kalyan Shrestha were the special guests. Chief Attorney of the Province 2 Mr. Dipendra Jha and senior advocate Mr. Khim Lal Devkota highlighted the achievements made by the Province Assembly in the last three years and reviewed the activities and challenges of the Assembly, committees and sub committees. They shared about internal and external challenges in the implementation of federal system in the province.

Finally, a meeting was held jointly by the High Court, Janakpur and Nepal Law Society to find out the areas of support and discussion in the subsequent workshop. Chief Minister of the Province - 2 Mr. Lal Babu Raut, former Deputy Prime Minister Mr. Upendra Yadav and former Chief Justice Mr. Kalyan Shrestha attended the meeting. There were 22 participants in the meeting including the Acting Chief Judge of the High Court, judges, and court officials.

Chief Attorney of the Province- 2 Mr. Dipendra Jha and Senior Advocate Mr. Khim Lal Devkota highlighted the achievements and challenges faced by High Court and District Courts in the Province in course of their judicial service delivery. They shared that since the service-seekers in the Province



are unique, the courts need to tailor their service-delivery to match the needs and aspirations of the people. Judges and registrars of the courts spoke on the state of service delivery, challenges they have faced and about the nature of cases they confront, as well as the state of implementation of court decisions. They said that the support program will be effective if the Nepal Law Society conducts research and discussion on these issues.

Chief Minister Mr. Raut, chief guest Mr. Yadav and special guest Mr. Shrestha gave their brief remarks at the meeting. They shared that the courts should focus on ensuring accessible and cost-effective justice. (The detail minute is given in Annex-2)



7.4. workshop on Parliamentary Practice, Democratic and Inclusive Law Making Process

Based on the series of planning meetings and the field visit to carried out need assessment of the beneficiaries, the project started its series of workshop with the stakeholders. The constitution has provided certain law making authority to the provincial assembly also. It is necessary to assess the state of law making in province, the extent to which it has adopted public consultations, available technical capability on law making, state of implementation of laws, practices adopted by various committees, weaknesses, interventions by federal and issues of coordination and cooperation. With the purpose of addressing these concerns, which were jointly identified, a workshop was held in partnership with the assembly. The Speaker, deputy Speaker, chairperson of committees as well as members participated in the workshop on the “Parliamentary Practice, Democratic and Inclusive Law Making Process” organized jointly by Provincial Assembly Secretariat and Nepal Law Society on January 21, 2021 at Bardibas, Mahottari.

Brief Proceedings

The one-day workshop was chaired by Speaker of Province 2 Assembly Mr. Saroj Kumar Yadav. Mr. Krishna Man Pradhan, Executive Director of NLS, welcomed the participants including the Speaker, chairperson of committees, chief whips, assembly members, opposition leader, chief minister and other distinguished guests. Mr. Pradhan shed light on the objectives of the program.

Key speakers including Mr. Upendra Yadav, former deputy prime minister of Nepal; and Mr. Saroj Yadav, Speaker of the Assembly hoped the workshop provided necessary knowledge and capacity development on law making. They expressed happiness about the project initiatives. Likewise, opposition leader of Province 2 assembly Mr. Shatrughan Mahato; and Mr. Ram Saroj Yadav, Nepali Congress parliamentary party leader spoke about the importance of the workshop and hoped it will help the province to follow proper parliamentary procedures in law making. They said it will add to the experience of running provincial government in the spirit of federalism.



Five working papers were presented at the workshop. The first paper on Role of Province Assembly on Law making process and its Contribution: Coordination with the Government was presented by former chief justice Mr. Kalyan Shrestha and chief attorney of Province 2 Mr. Dipendra Jha. The second working paper on Coordination among the federal, province and local government as per the constitutional provision was presented by Mr. Khim Lal Devkota and the third paper on Coordination between Province provision and Local Government as per the constitutional provision was presented by Mr. Mohan Acharya. The fourth working paper on Democracy, Parliamentary Practices: Role of Provincial Assembly on Criminal Law making was presented by Mr. Kalyan Shrestha and Mr. Dipendra Jha. The fifth working paper on Role of Committee Chairperson and Members on law making was presented by Mr. Laxman Lal Karna and Mr. Parshuram Meghi Gurung. First and third session was chaired by Mr. Upendra Yadav. The second session was chaired by Speaker Mr. Saroj Yadav and the fourth session was chaired by Mr. Jayanul Roy, chairperson of Women, Children and Social Justice Committee of the Provincial Assembly.

In the first session, the paper presenter Mr. Jha highlighted the need for the province assembly to take both practice and principle into consideration while formulating laws. He termed Province 2 as a model and pointed how the police act was passed unanimously in coordination between the assembly and the government. He said there were some problems regarding jurisdiction because federal Acts had confiscated some of the provincial rights. Mr. Jha also explained about the need to develop the system of post legislative scrutiny. The paper presentation was followed by discussion by the participants. The Chief Minister Mr. Lal Babu Raut opened that the program will help the committee chairperson, members and ministers to improve their working styles in the coming days. He also hoped there will be intensive discussions on the weaknesses in law making, coordination issues, and pressures on law making etc. He said the participants should also discuss about the constitutional spirit, bureaucratic obstructions whereby they always keep themselves at the center and so on. Other participants including Mr. Manish Suman, chairperson, Economic Affairs and Planning Committee; Mr. Ashok Kumar Yadav, chairperson, Provincial Affairs Committee; Mr. Shekh Abdul Kalam, chairperson, Development Committee; Mr. Lagan Lal Chaudhary, chairperson, Public Accounts Committee; Mr. Birendra Prasad Singh, chairperson, Agriculture and Land Management Committee; Mr. Laxman Lal Karna, member of House of Representatives; and Mr. Parshuram Meghi Gurung, Chairperson of LMC, National Assembly gave their feedbacks and suggestions. The session chairperson Mr. Upendra Yadav, former deputy prime minister, wrapped up the session by stating that achievements of law making can be seen only from the effective implementation.

In the second session, Mr. Devkota presented a paper on the coordination among the federal, province and local level. He said that the Act on Coordination and Inter-relations among the three tiers has already been passed by the federal parliament and is considered as second constitution because of its importance. He said the major challenge was now to deal with the unitary mindset. The paper presentation was followed by remarks from the participants. Mr. Shiva Chanda Chaudhary, assembly member; Mr. BechiLingel, assembly member; Dr. Rina Yadav, assembly member; Mr. Upendra Prasad Kushwaha, chief whip, Nepali Congress; Ms. SuritaKumari Shah, assembly member; Mr. Parshuram Meghi Gurung, chairperson of LMC, National Assembly; and Mr. Upendra Yadav, former deputy prime minister gave their remarks focusing on the need to make best use of the three-tiers of government through coordination and collaboration. Speaker Mr. Saroj Kumar Yadav wrapped up the session by stating that workshops like these will enrich the province assemblies.

In the third session, Mr. Jha talked about the problems in understanding the laws. He said there was confusion on the province's jurisdiction on criminal matters and although criminal procedure is under the province, there were meaningless obligations. He said the provinces should have the authority on imposing penalties – both administrative and otherwise. He also complained that district government attorneys have been kept beyond the internal affairs ministry of the province. He said there were attempts to control even the matters in the exclusive list of rights for provinces. It was followed by remarks from Mr. Kalyan Shrestha, former chief justice who argued that major problem was due to

the matter of federalism and division of power. He said there were tendencies to interpret in ways that suits one's interests. Subsequently, participants including Mr. Parmeshwor Shah, chief whip, provincial assembly; Mr. Ram Ashish Yadav, assembly member; Ms. Rani Sharma Tiwari, assembly member; Mr. Shiva Chandra Chaudhary, assembly member; Ms. Chameli Devi Das, assembly member; and Mr. Laxman Lal Karna, member of House of Representatives gave their remarks. Mr. Upendra Yadav, former deputy prime minister, wrapped up the session by saying that while the federalism is a concept of power moving from bottoms-up, in Nepal it was being practiced as top-down process.

In the fourth session, Mr. Parshuram Meghi Gurung, chairperson of LMC, NA, presented a paper talking about various kinds of parliamentary practices in the world such as unicameral, multi-cameral, and presidential systems. But all of them follow committee systems, he said, adding that in Nepal three kinds of committees were in operation – subject committee, special committee and joint committee. He spoke about the importance of committee. It was followed by remarks from Mr. Shatrughan Mahato, leader of opposition; Mr. Ram Saroj Yadav, leader of Nepali Congress; Mr. Birendra Prasad Singh, Chairperson, Agriculture and Land Management Committee, Province Assembly; Mr. Manish Suman, Chairperson, Economic Affairs and Planning Committee; Mr. Ashok Kumar Yadav, Chairperson, Province Affairs Committee; Mr. ShekhAbul Kalam, Chairperson, Development Committee; Mr. Lalan Lal Chaudhary, member of Public Accounts Committee; Mr. Laxman Lal Karna, member of House of Representatives; and Mr. Upendra Yadav, former deputy prime minister of Nepal. The session was wrapped up by Mr. Jainul Raya, Chairperson, Women, Children and Social Justice Committee who said that the constitution of the country was in a difficult position. He pointed at weak enforcement of laws.

Key Achievements of Program with Province Assembly

- Around 65 participants including almost all chairperson of assembly committees, members, secretary and staffs were present full-time during the workshop;
- Program became effective with the presence of former deputy prime minister of the government of Nepal and senior leader of Janata Samajbadi Party Mr. Upendra Yadav; former chief justice Mr. Kalyan Shrestha; chairperson of LMC of federal parliament Mr. Parshuram Meghi Gurung; member of federal parliament Mr. Laxman Lal Karna; Chief Minister of Province 2 Mr. Lal Babu Raut and Speaker of Province 2 Assembly Mr. Saroj Yadav;
- Presence of high-level officials of the provincial assembly secretariat and discussions on 5 key subjects resulted in their important suggestions, feedback for coming days;
- Important feedbacks provided by the provincial assembly for the federal government;
- Commitment on cooperation and coordination on law making between provincial government and the assembly;
- Increased expectation of coordination and cooperation among federal, provincial and local level on law making and service delivery;
- Created basis for improved law making process and standard due to important feedbacks on law making, parliamentary practice, coordination among three tiers, monitoring and implementation;
- Provided opportunities to correct weaknesses and lapses made in the past based on the experiences and practices of the assembly

(Detail report in Annex 3)

7.5. workshop on Effective Service Delivery at Province Level – Federal Perspective,

The NLS and the Province 2 government jointly organized one-day interaction workshop with the ministers and secretaries of the Province 2 government on January 22, 2021 at Hotel Paawan Mithila in Bardibas. Former deputy prime minister Mr. Upendra Yadav, former chief justice Mr. Kalyan Shrestha, Chairperson of LMC Mr. Parshuram Meghi Gurung, CA member Mr. Khim Lal Devkota, Chief Minister

Mr. Lal Babu Raut, province ministers, province chief secretary, secretaries and officials, NLS executive director Mr. Krishna Man Pradhan, NLS officials, and CIC Janakpur officials were present in the workshop. The workshop was chaired by Chief Minister Mr. Lal Babu Raut. The program was divided into two parts – opening session and working sessions.

In the opening session Mr. Gokarna Mani Duwadi, Chief Secretary, Province Government, welcomed the participants and said it will discuss how the service delivery has changed after the country transformed from unitary to federal state. He talked about the nature of service delivery based on the list of rights mentioned in the schedules of the constitution. He informed that the province government was operating within the limits set by the constitution. Likewise, Mr. Jitendra Sonal, Minister, Physical Infrastructure Development, said that the subjects identified for discussions in the workshop were of key importance. He hoped that the province will be able to deliver success in the new set up. Ms. Dimple Kumari Jha, state minister, province government. She said that after the transformation of the country from unitary to federal, they were all in formative stage in the last three years. She called it learning



by doing process. Mr. Upendra Yadav, former deputy prime minister of Nepal, said that he had felt the need for this kind of experience-sharing workshop when he was the federal law minister. He suggested that the provincial government should leave no stone unturned in implementing the laws. The chief minister Mr. Lal Babu Raut, said that the province government had formulated Acts that were necessary to operationalize federalism, and to compel the federal government to address the problems they were facing. He said that there is a need to work for the institutionalization of rule of law. He said that strong federal government is good but it should not have the mind set to undermine provinces.

In the working sessions, six working papers were presented. The first paper on Role of Province Government in Law Making in Federal Structure and its Contribution and Challenges was presented by senior advocate Mr. Khim Lal Devkota. The session was chaired by the chief minister. The second session was chaired by former deputy prime minister in which advocate Mr. Mohan Acharya and MP Mr. Laxman Lal Karna presented a paper on Democracy, Parliamentary Practices: Role of Provincial Government in Criminal Law Making. The third session was chaired by the Chief Minister in which LMC chairperson Mr. Parshuram Meghi Gurung presented a paper on Coordination among Federal, Province and Local Level in Law Making: Challenges and Opportunities. In the same session advocate Mr. Acharya presented a paper on Province and Local Level Coordination and Dispute Settlement: Challenges and Opportunities. The fourth session was chaired by Mr. Bijaya Kumar Yadav, Province Minister for Internal Affairs and Law. Mr. Balananda Poudel presented a paper on the Role of Province Government in Fiscal Federalization: Opportunities and Challenges. In the same session, Professor Uma Shankar Prasad presented a paper on Provincial Government's Budget Planning and Implementation.

In the first session, Mr. Devkota explained that federal structure means division of power among different tiers of government. His paper talked about the list of rights of province and said coordination is the major feature of the constitution. He said that the provinces should no longer wait for the federal

government while formulating laws on concurrent list of rights. They should not be too concerned about inconsistency if they engage in coordination and sharing of information. He said the province and the federal level should also coordinate with the local levels. He pointed a number of challenges such as policy problem, unitary mind set, lack of capacity and resources. It was followed by remarks from the participants. Mr. Bijaya Kumar Yadav, Province Minister for Internal Affairs and Law; Mr. Ram Naresh Raya, Minister for Industry, Tourism, Forest and Environment Ministry; Mr. Shailendra Prasad Shah, Minister for Land Management, Agriculture and Cooperatives; Mr. Krishna Prasad Kayari, Province Secretary, Ministry of Social Development; and Mr. Parshuram Meghi Gurung, Chairperson of LMC gave their remarks. The ministers particularly talked about the challenges they have faced in terms of coordination with the federal government as well as in relationship with provincial bureaucracy. The chief minister Mr. Raut wrapped up the session saying that the federal government with the unitary mind set, which was causing many problems.

In the second session, Mr. Acharya described rule of law in democracy and federal structure, three-tier federal system, framework of law, province law making and criminal liability, list of province rights, inter-relationship among federal, provincial and local level, dispute settlement mechanism, as well as problems and challenges in criminal law. Various participants gave their remarks including Mr. Jitendra Sonal, Minister for Physical Infrastructure Development; Mr. Bijaya Kumar Yadav, Minister for Economic Affairs and Planning; Mr. Saroj Kumar Singh, State Minister, Internal Affairs and Law Ministry. They spoke about the need to ensure predictability and stability in provincial bureaucratic set up, among others. They also admitted that the provinces also have some weaknesses regarding law and order, and law implementation.

In the third session, Mr. Gurung elaborated about the mechanisms and procedures of coordination among the three tiers of the government. His paper focused on the importance of coordination. Likewise, Mr. Acharya talked about the inter relations and dispute settlement between province and local level as guided by Articles 57, 58 and Part 20 - Articles 235 (2) and (3). In course of presentation, he delved into constitutional provisions, preamble of the model Bill, explanations and definition, subjects of coordination between provinces and local level, procedures of coordination, role of the committees of the provincial assembly, their rights and functions, reporting system, dispute settlement, special committees, time for dispute settlement and miscellaneous items. It was followed by remarks from the participants such as Mr. Suresh Kumar Shah, State Minister, Land Management, Agriculture and Cooperatives Ministry; Mr. Gokarna Mani Duwadi, chief secretary of Province 2 government; and Mr. Laxman Lal Karna, MP, House of Representatives. They highlighted the need to work amid problems and challenges. The session chairperson Mr. Upendra Yadav, former deputy prime minister of Nepal, wrapped up the session by underscoring the need for provincial ministers to regularly visit the provincial assembly and take part in committee meetings. Ministers should abide by the committee directives and instructions etc.



In the fourth session, Mr. Poudel and Mr. Prasad presented two papers. Mr. Poudel explained about the federal structure of the country and said there were numerous spaces where there are overlaps in terms of rights and functions. Mr. Prasad focused on the budget and planning aspects of the provincial government. Mr. Upendra Yadav, former deputy prime minister of Nepal, gave his remarks by stating that the main problem was in regarding provinces as mere units rather than as partners. The federation is a union of provinces, he said. He said fiscal federalism was the lifeline of federalism. He reiterated the need to amend the constitution to correct several weaknesses calling for equal justice and equitable

justice. A number of participants including Mr. Kashi Raj Dahal, Secretary, Internal Affairs and Law Ministry, Provincial Government; and Mr. Lal Babu Raut, chief minister of Province 2 gave their detailed feedback. Mr. Bijaya Kumar Yadav, Minister, Economic Affairs and Planning Ministry, wrapped up the session by stating that the model of federalism adopted by Nepal is unique in the world. There is a need to gain experiences on using this constitution.

Key Achievements of Program with Province Government

- Around 45 participants including Chief Minister, and almost all ministers, province chief secretary, secretaries and staffs took part in the workshop full time;
- Presence of former deputy prime minister of the government of Nepal and senior leader of Janata Samajbadi Party Mr. Upendra Yadav; former chief justice Mr. Kalyan Shrestha; chairperson of LMC of federal parliament Mr. Parshuram Meghi Gurung; chairperson of National Natural Resources and Fiscal Commission Mr. Balananda Poudel, and Professor Mr. Uma Shankar Prasad helped in open and fruitful discussions that were solution-oriented;
- Presence of high-level officials of the provincial government secretariat and discussions on key subjects resulted in their important suggestions, feedback for coming days;
- Received important feedbacks from the provincial government to federal parliament and government;
- Created basis for improved law making process and standard due to important feedbacks on criminal justice system, fiscal federalism, practice of Province 2, opportunities and challenges, parliamentary practice, coordination among three tiers, monitoring and implementation;
- Provided opportunities to correct weaknesses and lapses made in the past based on the experiences and practices of the province government;
- Produced important reference material based on working papers prepared by experts on six topics;
- Commitment made for increased cooperation and coordination between province assembly and province government on law making; and
- Understanding reached to ensure presence of concerned ministers to inform about bills in the assembly and concerned committees.

See detail in Annex- 4

7.6. workshop on Judiciary Service Delivery: Expectations and Role of Province and Local Government

The third component of the project related to the Judicial Service Delivery and the Expectations/Roles of the Provincial and Local Government involved the interaction workshop with the judges of the High Courts of Janakpur, Birgunj and Rajbiraj as well as judges of District Courts of Dhanusha, Mahottari, Sarlahi, Siraha, Bara, Parsa, Rautahat and Saptari. It was held on March 20, 2021 at Hotel Paawan Mithila in Bardibas, Mahottari. The workshop was jointly organized by High Court Janakpur, Chief Attorney's Office and Nepal Law Society.

The main purpose of the workshop was to discuss the contribution and challenges of province-level judiciary by bringing together judges of High Court, judges of District Courts, and registrars of Province 2; to facilitate dialogue between judges/judicial officials and provincial government officials for the effective judicial service delivery and effective implementation of laws formulated by provincial and local level; to facilitate dialogue on the role of judiciary in implementing federalism and in increasing public trust in judiciary; to review the concept of local level justice, as well as structure and performance of judicial committees formulating future strategy for effective service delivery; and to review the status of access to justice for citizens of Province 2 and to formulate future strategy for its promotion.

The one-day workshop was chaired by Mr. Prakash Chandra Gajurel, Chief Judge of High Court, Janakpur. Mr. Krishna Man Pradhan, Executive Director of NLS, welcomed the participants including the Judges,

Chief Minister, court officials, chief attorney and other distinguished guests. He shed light on the objectives of the program. Mr. Dipendra Jha, Chief Attorney, Province 2, said the program was designed on their demands and through consultations among provincial government, assembly and judiciary. Ms. Saranga Subedi, Chief Judge, High Court - Birgunj said that she has participated in this kind of dialogue for the first time. She shared about her experience as judge in Parsa district and found that the challenges of judiciary in Province 2 was a bit different from elsewhere. She pointed at lack of access to justice as well as inability among the citizen to reach the doors of the court as major



challenges of Province 2. Mr. Dilli Acharya, chief judge, High Court –Rajbiraj, said he was pleased to see the interest by the chief minister himself regarding the concerns of judiciary. Mr. Gyanendra Kumar Yadav, Minister for Internal Affairs and Law, said the program with the high level of participation by judges was a big opportunity to increase collaboration and understanding in the coming days. Mr. Lal Babu Raut, Chief Minister of Province 2, said he was already witnessing positive changes from the earlier two programs. He said that following the orientation on Bill making process, he had already witnessed improvements including holding of public consultations. He hoped similar results from this program as well. He said that he will take the opportunity of the presence of Supreme Court justice, who is also a member of Constitutional Bench, to draw attention to over one dozen cases filed by the province 2 government regarding the operationalization of federalism. He said that delays and lingering in the case settlement was hurting all stakeholders. He hoped that the cases will be expedited. Mr. Upendra Yadav, former deputy prime minister, said that this program was designed because they were convinced that issues of Province 2 can be resolved only through cooperation, coordination and collaboration among three organs. He said that Province 2 is different geographically, developmentally and politically. He urged that the judges to look into the rationale behind the province laws and help in their implementation. Ms. Pratigya Simkhada, Governance Advisor, Swiss Embassy in Nepal, said that developments in province 2 was important for entire Nepal in terms of operationalization of federalism. She said that Swiss government is interested to support the implementation of constitution in Nepal. Rather than sharing Swiss experience, it is important to discuss the distinct problems by taking Swiss experience only as reference, she said. Mr. Prakash Chandra Gajurel, Chief Judge, High Court Janakpur, appreciated the constructive opinions and feedbacks by all the speakers including judges and Chief Minister. He said that their remarks provided a lot of inputs to improve coordination and collaboration between provincial government/assembly and judiciary. He said he supported the viewpoints by judges regarding the opportunities and challenges of province-level judiciary. The opening session was followed by working sessions in which four papers were presented.

In the first working session chaired by former chief justice Mr. Kalyan Shrestha, Chief Attorney of Province 2 Mr. Dipendra Jha and MP Mr. Laxman Lal Karna presented a paper on the “Review of the Status of Law Making in the Province and the Role of Judiciary in their Implementation.” The presenters highlighted the number, issues and contents of the laws made by Province 2 Assembly as well as the status of their implementation and challenges. They also spoke about the role of



judiciary in the implementation of the provincial laws. They updated about the cases filed in the court against some province laws. They said that there were around 50 such cases in the court including cases related to forest management, personnel management, police, coordination among three tiers, physical infrastructure development, covid management etc. They also talked about the steps taken by the province government in coordinating with the judiciary such as in the field of development of physical infrastructure and service delivery. The presenters also underscored about various challenges that have surfaced in the relationship between the province government and the judiciary. They listed some challenges such as delay in the hearing by the Constitutional Bench on cases they had filed claiming that federal laws had interfered with provincial jurisdictions; lack of consultation with provincial government while appointing judges at the provincial High Court; lack of personnel and high volume of case load in province High Courts and District Courts leading to delay in justice dispensation; and the need to expand Judicial Council to provinces to increase provincial stake and ownership. Various participants including Ramesh Rijal; judge, Mr. Dipendra Adhikari, Mr. Brajesh Pyakurel, Ms. Shanta Sedhai, Mr. Hari Bagale, Mr. Dwarika Man Joshi, Ms. Saranga Subedi and Ms. Prabha Basnet spoke at the program. They said that while judges have to deal with cases they are not aware about various laws being formulated by the province and the local level. Hence, they pointed at the need to have a system to keep record of such laws in the court. They also pointed out challenges posed due to difference in legal provisions and social culture and gave example of marital age. They said that while the federal law stipulates that adults can marry only after the age of 20 years, the social culture prevalent in Province 2 calls for marriage well before they reach 20 years of age. This has resulted in various complications and marriages could not be registered. They called for establishment of Provincial Judicial Training Academy so as to train judges who come to the Province 2 on specific issues relevant to this province. Speaking from the chair, former Chief Justice Mr. Kalyan Shrestha said it was necessary to have smooth coordination between province government/assembly and judiciary. He urged leaders from all sides to take initiatives in this regard. He asked the chief minister specifically to address some of the concerns raised by the participants. He supported the demands for setting up province level Judicial Training Academy.

The second session was chaired by former deputy prime minister Mr. Upendra Yadav. In the second session, Supreme Court Justice Mr. Prakash Raut gave a presentation on the subject 'Role of Judiciary in the Implementation of Federalism: Challenges in Increasing Public Trust.' He explained about the good governance and judiciary. He talked about the indicators of good governance including rule of law, coordination and transparency. He also spoke about the judicial accountability and public trust. In the paper he argued that judiciary is no exception when questions were being raised about all sectors of the state. He also pointed at lack of resources in judiciary. He listed many challenges faced by judiciary such as the allegations of the political affiliation and reflection on judgments; lack of transparency in the appointment process; qualifications are not perfectly scrutinized and merits are undermined; inclusion is undermined; cadre based knowledge and experiences are not given due consideration at the behest of political influence in the appointment process of the judicial council; Constitutional



Council's recommendation process itself is not without problem, and often suffer criticisms by the parliamentary hearing committee; Parliamentary hearing is seen as partisan; performance audit of the judges as well as the lawyers are not ascertained; and professional mal practices, judicial misconduct and corrupt practices are not seriously overseen. Various judges including Mr. Dilli Raj Acharya, Mr. Thagendra Kattel, Mr. Durga Prasad Dhungel, and Mr. Ramesh Dhakal responded to the paper presentation. They said that they would benefit by the establishment of provincial judicial service commission. They pointed at the need to strengthen Justice Sector Coordination

Committee. They called for annual review of decisions made by High Courts and District Courts as well as decisions made by Judicial Committees of the local level. Justice Mr. Kalyan Shrestha noted that once appointed as a judge, the person should cease all kinds of political affiliations. He called for improvement in appointment process to ensure inclusion and transparency. Likewise, speaking from the chair, former deputy prime-minister Mr. Upendra Yadav expressed happiness about the nature and depth of discussions between judges and the leaders of the province government. He said that there is a need to have patience for building system and provide service as per people's expectations. He asked the chief minister and chief judge present at the program to take initiatives from their sides to address concerns raised at the program.



The third session was chaired by former chief justice Mr. Kalyan Shrestha. In the third session, district court judges Mr. Brajesh Pyakurel and Mr. Ramesh Prasad Rijal gave a presentation on the subject 'Concept of Local Justice, Evaluation of Function and Efficiency of Judicial Committees and their Challenges.' The judges gave presentation on the subject by explaining the concept and understanding of local justice including the status of local judicial bodies in Nepal. They talked about it in terms of Judicial Five Year Strategy. The paper also highlighted the judicial structure in Nepal and the Local judicial structure and functions as per Local Governance Operation Act (LGOA). They highlighted the Clause 47 (1) and (2) of LGOA that details the nature of cases heard by judicial committees. They talked about the issues and challenges faced by judicial committees. They also shared the findings by court monitoring of the judicial committees. Various participants including Mr. Durga Prasad Dhungel, Mr. Ramesh Pokharel, Mr. Basudev Acharya, Mr. Dilli Acharya, Mr. Shekhar Poudel, Mr. Dharma Raj Poudel, and Mr. Dipendra Jha gave their responses. They shared what they saw during the monitoring of the judicial committees such as lack of due process in the case settlement; settlement of cases that are beyond their jurisdictions; domination by mayor and ward chairperson in case settlement; and challenges in case settlement plus decision implementation. They pointed at confusion about judicial committees and proposed local court. Speaking from the chair, Mr. Shrestha said that many strong points have been raised during the program. He urged the chief judge and chief minister to take them into consideration so that the issue of adherence to due process is fully taken care of and people will get justice at their doorsteps.

The fourth session was chaired by chief minister Mr. Mohammad Lal Babu Raut. In the fourth session, former Chief Justice Mr. Kalyan Shrestha and senior advocate Mr. Khim Lal Devkota gave a presentation on the subject 'Access to Justice: Challenges and Opportunities. The paper presenters explained that justice has a value- enlivening human potentials, illumination of people both as individual and collectivities. They said that objective of access to justice is to ensure and secure justice. They talked about determinants of the access to justice and the need to have deeper understanding of the justice aspects of Constitution of Nepal and creation of Justice oriented Institutions. They argued in favor of creation of support system for vulnerable group in raising awareness, supporting them in securing justice. They pointed at challenges such as poverty, illiteracy, marginalization and economic stratification and exclusions as well as social stigmatization for taking recourse to justice. They pointed at the need to have record keeping system, and raising awareness of the formal court process, assistance mechanism. They also talked about the rights to justice- and fair trial declared as fundamental rights, rights of the victims (for participation and compensation) declared as fundamental rights and the Strategy Plan of the Judiciary to improve court management and laws. They pointed at the need for capacity building of judges and court employees through NJA and to have the law on Legal Aid. Participants including

Mr. Dipendra Adhikari, Mr. Dilli Raj Acharya, Ms. Kiran Kumari Gupta, Mr. Ramesh Rijal, Mr. Kumar Maskey, Mr. Dipendra Jha, Mr. Rabi Sharma Aryal, Mr. Upendra Yadav, and Mr. Basudev Acharya made their remarks. They said that vulnerable citizens of province 2 have lacked access to justice. Most cases have been brought forward on the basis of provocation by others. They added that vulnerable citizens refrain from approaching court due to high cost. The legal aid is only in name. They also called for attitude change among court officials to facilitate the service recipients. They also called for massive public awareness. Mediators should be appointed in wards. Speaking from the chair, Chief Minister Mr. Raut said he took part full time in all three programs. He said he was pleased with the result from earlier two programs with provincial government and the assembly. He added that this program with provincial judiciary will also have similarly positive impact. In this program he said the judges were able to understand the laws formulated by the province and their objectives. He said that they will provide all the 39 laws they have formulated to the High Court and District Courts. The provincial government will work from its side to address all the issues that have been raised.

Key Achievements from the workshop with Judiciary

- Around 65 participants including High Court and District Court judges of Province 2 present at one place for the first time;
- Dialogue between province-level judicial officials/judges, Chief Minister and Ministers held for the first time;
- Uniformity in understanding reached among the judges regarding the implementation of the laws formulated by the province and the local level, and positive opinion formed among the judicial officials;
- Commitment by the provincial government to support the judiciary in increasing public trust by providing resources as well as programs;
- Court and government agreed to work together to support local level judicial committees;
- Understanding reached to set up a model Province-level Judiciary Service Training Center; and
- Understanding reached to hold quarterly dialogue programs between court and the government.

(The detail providing report in Annex- 5)

7.7. Review of the completed activities

The project included planning and review meetings as integral part of the project programs. Just as planning and need assessment were important in the initial phase, the review meetings with the stakeholders during the program provided crucial inputs to improve them. The two review meetings were organized on February 12 and February 28. In the end, the final review/conclusion meeting was also organized between the NLS and the Embassy of Switzerland in Nepal on April 23 in order to take stock of the entire project, identify lessons learned and plan for future initiatives.

Objective

To review the workshops held as per the demands of the provincial government, the assembly and the judiciary; to hold dialogue on the effectiveness of the programs; to talk about the achievements of the programs; and to discuss and define the future steps.

Program

The first review meeting was held on February 12, 2021. In order to review the program activities since the NLS and Embassy of Switzerland in Nepal joined hands to support province 2 government, assembly and judiciary almost a year ago, the review meeting was held. It was participated by the members of the Advisory Committee including Chief Minister of Province 2, Speaker, former Deputy Prime Minister, former Chief Justice, Chief Attorney of Province 2, NLS Executive Director and Embassy representative.

The agenda of the meeting were to review the completed activities; to plan the remaining programs of ongoing phase; and to identify issues for future program. The participants included Mr. Kalyan Shrestha - Former Chief Justice, Supreme Court of Nepal; Mr. Upendra Yadav, Former Deputy Prime Minister; Mr. Mohammad Lal Babu Raut, Chief Minister, Province-2; Mr. Saroj Yadav, Speaker, Province-2; Mr. Tirtha Man Shakya - Chairperson, Nepal Law Society; Mr. Dipendra Jha Chief Attorney, Province-2; Mr. Khim Lal Devkota, Executive Member, NLS; Mr. Krishna Man Pradhan Executive Director, NLS; and Mr. Ganesh Man Pradhan Senior Admin and Program officer, NLS.

The meeting was chaired by NLS chairperson Mr. Tirtha Man Shakya. Executive Director of NLS Mr. Krishna Man Pradhan gave overview of the completed programs. He said that in the last one year they held a series of planning meetings in Kathmandu as well as in Janakpur. Based on the planning with the stakeholders, the project carried out orientation programs and due to Covid situation, the programs were delayed. Various participants including Mr. Dipendra Jha Chief Attorney, Province-2; Mr. Khim Lal Devkota, Executive Member, NLS; Mr. Kalyan Shrestha - Former Chief Justice, Supreme Court of Nepal; Mr. Upendra Yadav, Former Deputy Prime Minister; Mr. Mohammad Lal Babu Raut, Chief Minister, Province-2; Mr. Saroj Yadav, Speaker, Province-2 made their remarks. Chairperson Mr. Sakya wrapped up the meeting.

The meeting reached key conclusions/recommendations including the need for regular orientations are necessary since one-off programs are not enough. It concluded that orientation programs with the provincial government and assembly have become exemplary. Hence such program on capacity building, governance, law making and coordination should be held once every three months. It recommended holding legislative training for local level officials, and judicial training for judicial committee members to promote governance, transparency, accountability and service delivery. It underscored the need for research and regular dialogue to help institutionalize the proper application of federalism as per the constitution.

The second review meeting was organized on February 28, 2021. The agenda of the meeting were to plan and prepare for the orientation to judicial officials and to identify content and methodology for the orientation. It was participated by Mr. Kalyan Shrestha - Former Chief Justice, Supreme Court of Nepal; Mr. Prakash Man Singh Raut, Justice, Supreme Court; Mr. Upendra Yadav, Former Deputy Prime Minister; Mr. Tirtha Man Shakya - Chairperson, Nepal Law Society; Mr. Dipendra Jha Chief Attorney, Province-2; Mr. Khim Lal Devkota, Executive Member, NLS; Mr. Krishna Man Pradhan Executive Director, NLS; and Mr. Ganesh Man Pradhan Senior Admin and Program officer, NLS.

The meeting was chaired by NLS chairperson Mr. Tirtha Man Shakya. At the outset, Executive Director of NLS Mr. Krishna Man Pradhan briefed about the activities and programs completed in the last one year. He said , due to covid situation, the programs were held much later than earlier planned. He talked about the two orientation programs for the provincial government and the assembly. As a third component of this initiative, he said, the project was now planning to hold orientation for judicial officials of Province 2. As per him, this is the first such orientation for province-level judicial officials in the new constitutional set up. He talked about the distinct nature of Province 2 in terms of geography, population and political movements. He also talked about distinct challenges faced by the province 2 judicial officials. From the viewpoint of nature of crimes, level of human development and level of good governance, the province 2 judiciary faced unique challenges, the current program was aimed to discuss the challenges and opportunities of provincial judiciary in the context where the constitution has espoused federalism along with integrated judiciary. Various participants including Mr. Upendra Yadav, Former Deputy Prime Minister; Mr. Dipendra Jha Chief Attorney, Province-2; Mr. Kalyan Shrestha - Former Chief Justice, Supreme Court of Nepal; Mr. Prakash Man Singh Raut, Justice, Supreme Court; and Mr. Khim Lal Devkota, Executive Member, NLS gave their remarks and suggestions. Mr. Shakya wrapped up the meeting.

The meeting reached key conclusions/recommendations including the decision to hold workshop with the judiciary on March 20, 2021. It concluded that the orientation will have three sessions – first session

on access to justice; second session on networking and collaboration among provincial assembly, the government and province level judiciary; and third session on judicial accountability and public trust. Likewise, it also decided that the detailed session plan and resource persons will be determined by NLS.

The Final Conclusion/Review Meeting

After the completion of all the planned programs and activities of the project, the final conclusion/review meeting was held on April 23, 2021 between NLS and the Embassy of Switzerland in Nepal with the participation of key stakeholders. In fact, the NLS has already submitted all the event-wise reports and proceedings to the Embassy of Switzerland in Nepal. In the final review meeting, too, there were the presence of Swiss Ambassador Ms. Elisabeth Von Capeller, Chief Minister of Province 2 and other senior members. It discussed the major achievements of the program and the future outlook.

The project had been implemented through capacity building workshops provided to all three branches of Province 2 government. It examined the effectiveness of the Province in implementing the constitution, the gaps in the setup of the Provincial structure and way forward to strengthen all three branches of government. The main outcomes of the project are: ownership of the dialogue by political leadership and province government, inclusion of all political parties represented in the provincial government and commitment to continue dialogue on perceived gaps seen in coordination and cooperation related to law making.

The final review meeting was participated by former Chief Justice Mr.Kalyan Shrestha, Mr. Upendra Yadav, former deputy Prime Minister and senior leader of JSP; Chief Minister Mr. Lal BabuRaut; Chief Attorney Mr. Dipendra Jha; MP Mr. Laxman Lal Karna; Mr.ParshuramMeghiGurung,chairperson of Legislation Management Committee of the federal parliament; Ms. Puspha Bhusal, MP; Mr. Khim Lal Devkota;Mr. Mohan Acharya, Expert, Mr. Ganesh Man Pradhan; Mr. Krishna Man Pradhan, Executive Director of Nepal Law Society; and Mr. Tirtha Man Shakya, chairperson of Nepal Law Society and Ms. Elisabeth von Capeller, Ambassador and Ms. Pratigya Simkhada Banskota, Political Advisor participated from Embassy of Switzerland in Nepal.

During the course of conclusion/review meeting, the participants mentioned the following points as the achievements of the programs:

- The workshop led to greater ease for the Provincial Assembly Chairperson and committee chairperson in effectively carrying out their legislative duties – through the easier achievement of quorum in committee meetings; intensive and constructive discussions over Bill proposals in the committee; active participation by ministers; and improved formality in the Bill passing procedures,
- Increased participation by members from all the political parties represented in the assembly. Increased frequency and depth in clause-wise discussion of bills,
- Provincial Chief Minister shared about greater improvement in the origin of Bill, and in coordination among subject ministries,
- Coordination and participatory approach improved between ministers and bureaucrats,
- High Court and District Court judges and officials got the opportunity to hold dialogue on their issues and challenges with the justice of the Supreme Court,
- Greater clarity in the justice delivery works of the court,
- Underscored the need for regular programs for capacity building and coordination among provincial government, the assembly and judiciary,
- Underscored the need to start supporting the local governments in the Province 2 to improve their law making process, service delivery and effectiveness of judicial committees through capacity building and dialogue programs,
- Regular dialogue programs necessary on issues of federalism and access to justice.

Some Observations on the Project:

1. Province 2 ownership of project and commitment to continue critical assessment to make federalism more effective:

Attendance by highest level of leadership at the workshop (Chairperson of Janata Samjwadi Party and former deputy prime minister Mr. Upendra Yadav; Chief Minister of Province 2 Mr. Lal Babu Raut; and former Chief Justice Mr. Kalyan Shrestha) set the tone for all participants to attend and seriously focus on the discussions. The program that was designed based on the demands of Province 2 helped enhance the image of the province as committed to the implementation of federalism and provided space for frank and honest reflection on the gaps and shortcomings in the last three years of provincial governance. The workshop helped bridge the gap among the executive, legislative and judiciary of province 2 and is seen to have led to better understanding for necessary cooperation and coordination in law drafting, law enforcement and social integration. There were some comments made that the program was 'captured' by only one faction of Province 2's ruling government of JSP due to DPM Yadav's presence was not substantiated because senior leader of the other faction of JSP Mr. Laxman Lal Karna himself also actively participated in the programs. However, in future the project may need to ensure acceptance among all groups in advance.

2. Strong political outreach and knowledge of the partner:

The implementing partner of the project, Nepal Law society is well respected and trusted by many including the highest level of political leaders. They provided understanding of federal governance based on technical knowledge of law drafting and awareness and sensitivity to the related political processes. The role of the partner was limited to facilitation by providing the maximum space to province 2 stakeholders who had been involved since the beginning of the project design. The technical capacity of the partner was reinforced by a group of collaborators from all of the main political parties.

Analysis:

- Perception of public towards Province No. 2 government and benefits of federalism:
How to assess the impact of the provincial government in terms of service delivery to citizens since its establishment in 2018? The delay in naming of the province, the finalization of province capital, delays in various important bills etc. have been missed opportunities. While provincial government has been strong and vocal in raising issues related to federalism, the real benefit of federalism from better service delivery and fulfillment of needs, especially of the marginalized, is yet to be realized. There are often reports of corruption and delays in budgetary processes at local governments in Province 2. This points to the need for better coordination - horizontal (three branches of government) and vertical (with constituent local governments). Province 2 has a number of socio-economic challenges as shown by its low human development index. The provincial government should focus on increasing coordination and cooperation with local governments to make them more effective. Without stronger cooperation among the sub-national governments, the federal government will use the existing lapses and shortcomings in service delivery to justify their encroachment and recentralization tendency.

Nepal Law Society/Embassy of Switzerland in Nepal

Program on

Support to Good Governance, Law Making and Justice Delivery in Province -2

Summary of Planning Meeting

Hotel Summit ● 6 March, 2020

1. Background

With the purpose of supporting the Province Number Two in carrying out effective governance and rule of law, the Nepal Law Society and the Embassy of Switzerland in Nepal have joined hands to work with the government of the Province 2. Based on the demands from the Province, both the parties felt that the province number two is unique in the sense of its political movements and agenda it espoused in the course of constitution making. The Province is also credited with the institutionalization of the agenda of the federalization through the Madhesh movement and thus has more responsibility to set the ground as a model province. The Madhesh movement was of both political and socio-economic nature and was instrumental in ensuring federalism in the new Constitution. The Terai region, which the province represents, was also dissatisfied with the certain provisions of the current constitution and is still calling for its further amendment.

As such, it is imperative to support the province – where the provincial government is led by regional parties unlike in every other province where the Communist Party of Nepal is in the leadership –to reduce political/constitutional conflict and set it on course for inclusive democratic prosperity.

Hence, the NLS and the Embassy have joined hands to work with the province to support the effectiveness of the role of executive, legislative and judicial sector with high-level consultation meetings and technical inputs as per the new structure envisaged by the Constitution of Nepal promulgated in September 2015.

The province is in the course of law making and implementation of the Constitution, federal laws and provincial laws developed by themselves however, it has been suffering due to the lack of clarity on concurrent list of the constitution as per the schedule allocated for federal, provincial and local government. Lack of framework legislation for the coordination among federal, provincial and local government is another challenge and the judiciary is of the unitary nature. Moreover, the Province 2 is also unique in terms of its challenges in good governance and human development.

Therefore, the project is designed to prepare groundwork and support all three sectors horizontally and vertically. So that there is sufficient dialogue among federal and provincial stakeholders and clarify the myths and misconceptions. The aim of the project is also to learn lessons from each other, support each other for the smooth functioning of the all branches of the government in the days to come.

In order to achieve these purposes, the project will have three components and a separate planning workshop. Initially, a joint planning workshop will be held with the Province 2 government to specifically identify the needs and issues to be addressed. Based on the workshop, three other components will be carried out including Interaction and Workshop with Provincial Government; Interaction and Workshop with Provincial Assembly; and Interaction and Workshop with Provincial-level Judiciary.

To ascertain the methodology for carrying out the afore-mentioned components, a planning meeting was held on March 6 at Hotel Summit. Here is the minute of the meeting.

2. Agenda

- To share the concept note along with the planned activities;
- To seek feedback from the stakeholders on the concept note and activities;
- To prepare a detailed plan for the implementation.

3. Participants of the Meeting

● Mr. Kalyan Shrestha - Former Chief Justice, Supreme Court of Nepal
● Mr. Parshuram Meghi Gurung - Chairperson, Legislative Management Committee, Federal Parliament (National Assembly)
● Ms. Pushpa Bhusal-Vice Chairperson, NLS, Member, Federal Parliament
● Mr. Madhab Paudel - Chairperson, Nepal Law Commission, Executive member, NLS
● Mr. Tirtha man Shakya - Chairperson, Nepal Law Society
● Prof. Uma Shankar - TU
● Mr. Dipendra Jha Chief Attorney, Province-2
● Mr. Tshewang Ngudup, Political Advisor, Embassy of Switzerland in Nepal
● Ms. Pratigya Simkhada Banskota, Political Advisor, Embassy of Switzerland in Nepal
● Mr. Krishna Man Pradhan Executive Director, NLS
● Mr. Mohan Lal Acharya - Senior Constitutional Expert, NLS
● Mr. Ganesh Man Pradhan Senior Admin and Program officer, NLS
● Mr. Naiel Shrestha – Admin and Finance Officer, NLS

4. Proceeding of the Consultation Meeting

Mr. Tirtha Man Shakya, Chairperson of Nepal Law Society, chaired the meeting and welcomed the participants. He shared the objectives of the meeting. He talked about the importance of supporting the Province 2. He asked the participants to hear about the concept note and give their feedback so that they can help in ensuring effective programs.

Mr. Krishna Man Pradhan, Executive Director, NLS, opened the meeting by delivering brief remarks about the background, objectives and activities of the project. He shared the proposal developed for the support to be provided to Province two. While highlighting the objectives of the project, he said that the project aimed to support the increased effectiveness in the workings of Chief Minister, Ministers and Officials of Province Two government; effectiveness and coordination in the law making by the Provincial Assembly by helping the Speaker/Deputy Speaker, Committee Chair and Members; and provide orientation and facilitation to increase effective justice delivery by partnering with court judges, chief attorney, government attorneys, police officials and Bar Association Units.



He said that under activity one, joint planning meeting with provincial stakeholders is planned to discuss the modality of working with provincial stakeholders in order to ensure maximum participation and ownership. Similarly, under activity two, an interaction with the provincial government will be organized to identify areas of technical support for the increased effectiveness and good governance in province number two. Under the third activity, Mr. Pradhan shared that the interaction with the Provincial Assembly will be held to provide technical support in Bill making process and coordination with the Assembly of Province Two. Under the fourth activity, he shared that an interaction with the Provincial Level Judicial Officials will be held to provide orientation on coordination related to provincial level justice delivery and rule of law.

In addition to that Mr. Pradhan shared that NLS is planning to prepare detail proceeding report of all three components. They will be published in both (English and Nepali language) languages and disseminated widely. He said that the report-launching event will be organized to share the findings of the activities carried out to support the provincial government, assembly, and judiciary with the provincial stakeholders in order to help them identify the needs and ways to overcome them. He closed his briefing by asking the participants to give their feedbacks on the planned activities.

5. Remarks/Feedbacks by the Participants

■ Ms. Pushpa Bhusal, Member, House of Representatives, Vice Chairperson, NLS

Ms. Bhusal said that the planned activities to support the Province 2 are positive and could be fruitful. Since this is a pilot program, she said, that if this model is successful, it can be emulated and expanded to support all other six provinces. That apart, she said that in the current system of governance, budget and plans have mostly trickled down to the local level. Therefore, she urged similar program to support the planning and auditing system to ensure check and balance at local level. She suggested involving officials of judicial committees of concerned local governments in the component that covers the support to the judicial officials of province-level. Regarding the plan for Province 2, she suggested formulating a detailed content and timetable.



■ Prof. Uma Shankar, Economic Department, TU

Prof. Uma Shankar recalled the reasons why the federalism was adopted in Nepal. He said that the previous unitary system was unable to address issues in diverse country like Nepal. He felt that growth rate has increased due to the new system in Nepal and system has already proved its effectiveness within three years. As per him, most of the developed countries have adopted socialism and Nepal has to focus socialism of 21st century. On the Province 2, he shared his experience of supporting the province 2 in budget making. He said he realized that even Ministers are not aware about how to address issues and how to turn Nepal into a developed nation. Hence, he said that the NLS can be a proper organization with senior experts to help and support the province through enhancement of capacity and by convincing the high-level political leaders. Furthermore, he suggested expanding the program up to the local level also.



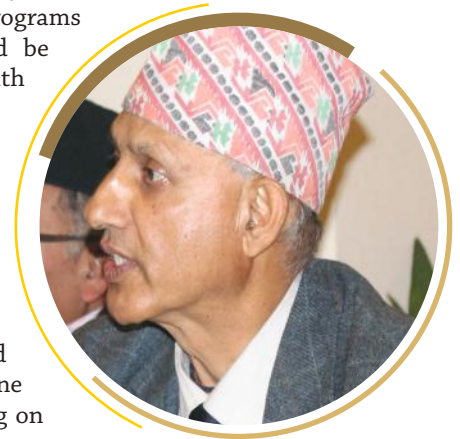
■ **Mr. Dipendra Jha, Chief Attorney, Province Number Two, Janakpur**

Mr. Jha said that one should not be too much ambitious while designing the project. He said that there are few myths regarding the performance in the field. There is huge outcry in Kathmandu that local levels are corrupt, which, he said, was wrong. Development is in rapid progress in local level, he said, urging patience in Kathmandu. He also suggested course correction in Kathmandu. For the minimization of corruption among the members of parliament, parliamentary development fund should be phased out, he suggested. He appreciated the proposed program but added that there is a need to be clear about the content. He suggested that this should not be understood as a mission to teach the provincial level stakeholders rather should be understood as sharing and collaboration for mutual benefit. He suggested developing common understanding through the joint meeting and discussion among experts and organizers. Series of joint meetings in Kathmandu and Janakpur will help to clarify issues, he said. Mr. Jha added that programs for each component should be finalized through meeting with the concerned stakeholders.



■ **Mr. Madhab Poudel, Executive Member, NLS and Chairperson, Nepal Law Commission**

Mr. Poudel appreciated the proposed programs and also gave his feedback. He agreed with the methodology of holding planning meeting with the concerned stakeholders to assess the needs. On the component related to judiciary, he suggested the project to involve local level judicial committees. He said that focus on the provincial level institutions of judiciary alone may not be effective. Instead, he suggested conducting training on law making process to the Local Level as they have huge capacity gap. He shared experiences from Gandaki province where the Commission's support was effective. Under the first component, he suggested focusing on fiscal federalism by hiring experts like Bala Nanda Poudel as an expert. He also suggested mobilizing officials of Finance Ministry Budget Division on matters related to budget and planning. He proposed that next meeting should be held where detailed program planning (along with list of appropriate experts) can be discussed and finalized.



■ **Mr. Parshuram Meghi Gurung, Chairperson, Legislation Management Committee, National Assembly**

Mr. Gurung said that he has observed gaps in each and every province regarding the adoption of democratic parliamentary procedures on law making. He hoped the proposed program can help in filling such gaps in Province 2. He said that while most people think about only lawmakers and political leaders but the real implementers are the civil servants. Hence, he said the program should be held in experience-sharing model by also involving the civil servants. He suggested that for all three components, programs should be designed so that participants can first share their experience and then discuss about the issues and challenges that emerge. He called for follow up programs to ensure that the programs are effective.





■ **Mr. Kalyan Shrestha, former Chief Justice**

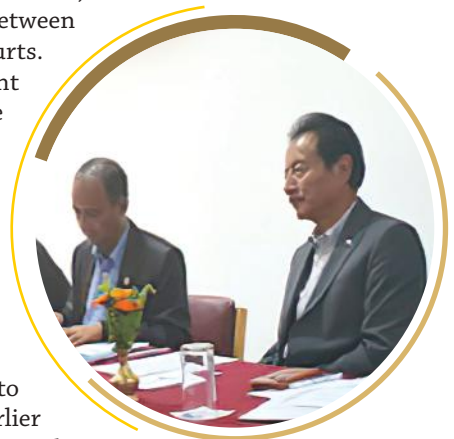
Mr. Shrestha said that this kind of program should have been held two years ago. But he appreciated the proposal and said that it can assist the process of federalization. He said that this initiative could be the case study of province number two. He said that the time has come to assess the performance of federalization and whether it is working as per the constitutional spirit. Hence, the case study of province 2 can help in the assessment, he said. He agreed that the current federal system is designed from centralist mindset and urged for changes in Schedules of the Constitution to empower provinces. He said that in this backdrop it was essential to learn about the experiences of the Province 2 in the last four years and find out the areas where the provinces have been effective and the areas where they have been ineffective. In the law making

process, he suggested that freedom should be given to all three tiers to carry out their duties remaining within the Schedules of the constitution. He said the province government and the assembly should be provided orientation from this perspective. He also suggested empowering them to involve citizens in law making process. So far as the component on judiciary is concerned, the proposed program should be designed to facilitate the linkage between the local level judicial committees and the district/high courts.

He suggested that components related to province government and assembly can be held by coordinating with them but the component related to judiciary should be held by coordinating with Judicial Council.

■ **Mr. Tshewang Ngudup, Political Advisor, Embassy of Switzerland in Nepal**

Mr. Ngudup from the Swiss Embassy in Nepal said that the SDC is currently focusing on local and provincial level. He said that the SDC was involved more with the Province 1 and has also worked on issue-basis with other provinces. He responded to comments that this kind of program should have been held earlier by saying that they could talk about it only after the requests are made or demands created from the concerned party. Now that demands have been made, he said, the Embassy was willing to support the initiative. He appreciated the discussions at the meeting on principle, process and content. He said that the programs will now have to be fine-tuned based on the suggestions on principle, process and content. He urged the NLS to fine-tune the planned programs.



■ **Mr. Tirth Man Shakya, Chairperson, NLS**

Speaking from the chair, Mr. Shakya said that the current proposed program, if successfully carried out, can become significant for other provinces as well. He appreciated the constructive inputs given by all participants. He said that it is never too late to start something positive. He also talked about the current operationalization of federalism and its weaknesses. He said a series of dialogues and consultation meetings are required to educate central level stakeholders first. Finally, he said that he expects such discussions to be conducted regularly. He thanked the participants for their active participation and closed the meeting.

6. Decisions

- Detailed work plan will be prepared by incorporating feedbacks and presented in the next meeting,
- Before the start of the program, a meeting will be held in Janakpur with the concerned stakeholders,
- Next meeting will be held before the Janakpur meeting.

Nepal Law Society/Embassy of Switzerland in Nepal

Program on

Support to Good Governance, Law Making & Justice Delivery in Province -2

Minute of Planning Meeting

Ceze Caroline, Babarmahal ● 29 June, 2020

1. Background

Nepal Law Society has joined hands with the Embassy of Switzerland in Nepal to work with the government of the Province 2 in order to support it in carrying out effective governance and establish rule of law. Based on the demands from the Province, both the parties felt that the province number two is unique in the sense of its political movements and agenda it espoused in the course of constitution making. The Province is also credited with the institutionalization of the agenda of the federalization through the Madhesh movement and thus has more responsibility to set the ground as a model province. The Madhesh movement was of both political and socio-economic nature and was instrumental in ensuring federalism in the new Constitution. The Terai region, which the province represents, was also dissatisfied with the certain provisions of the current constitution and is still calling for its further amendment.

As such, it is imperative to support the province – where the provincial government is led by regional parties unlike in every other province where the Communist Party of Nepal is in the leadership – to reduce political/constitutional conflict and set it on course for inclusive democratic prosperity.

Hence, the NLS and the Embassy had joined hands to work with the province to support the effectiveness of the role of executive, legislative and judicial sector with high-level consultation meetings and technical inputs as per the new structure envisaged by the Constitution of Nepal promulgated in September 2015.

The project is designed to prepare groundwork and support all three sectors horizontally and vertically. So that there is sufficient dialogue among federal and provincial stakeholders and clarify the myths and misconceptions. The aim of the project is also to learn lessons from each other, support each other for the smooth functioning of the all branches of the government in the days to come.

In order to achieve these purposes, the project had three components and a separate planning workshop. Initially, a joint planning workshop will be held with the Province 2 government to specifically identify the needs and issues to be addressed. Based on the workshop, three other components will be carried out including Interaction and Workshop with Provincial Government; Interaction and Workshop with Provincial Assembly; and Interaction and Workshop with Provincial-level Judiciary.

Initially, the project period was set for March, 2020 till June, 2020. However, due to the sudden coronavirus crisis and the lockdown, the planned activities could not be carried out. Therefore, in order to allow the project to proceed in a safe manner, the Embassy has agreed to extend the project period till January, 2021.

With the increasing clarity on the situation of the virus outbreak, the project has planned to carry out in a safe manner from July onwards. On June 29, a planning meeting was among the key stakeholders of Province 2, the NLS and the Embassy at Babarmahal Revisited. Please find below the minute of the meeting.

2. Agenda

- To update and adjust the project activities in view of coronavirus crisis;
- To plan for the safe project activities with the key stakeholders;
- To allocate responsibilities of the project programs.

3. Participants of the Meeting

● Mr. Upendra Yadad, Former Deputy PM, Nepal Government
● Mr. Mohammad Lalbabu Raut, Chief Minister, Province-2
● Mr. Kalyan Shrestha, Former Chief Justice
● Mr. Khim Lal Devkota, Executive Member, NLS
● Mr. Uma Shankar Prasad, Expert
● Mr. Ngudup Tshewang, Embassy of Switzerland in Nepal
● Ms. Pratigya Simkhada Banskota, Political Advisor, Embassy of Switzerland in Nepal
● Mr. Dipendra Jha, Chief Attorney, Province-2
● Mr. Krishna Man Pradhan, Executive Director, NLS
● Mr. Ganesh Man Pradhan, Senior Admin and Program officer, NLS

4. Proceeding of the Consultation Meeting

Mr. Krishna Man Pradhan, Executive Director, welcomed the participants and highlighted the objectives of the program. He explained about the project period and how it was affected by the coronavirus crisis. He said that as per the Embassy's advice, the project programs were not implemented during that period. Meanwhile, with the increasing clarity about the crisis and the ways of minimizing its impact, he said they had a Zoom meeting with the Embassy on June 24 to talk about safe ways of conducting programs. As per the advice of the Zoom meeting, this meeting has been called, he said.



He also shared about the plan. He said the project wants to carry out three programs in August, September and October. In August, the project will carry out programs with the province government. In September, the project will carry out programs with the province assembly. In October, the project will carry out programs with the province-level judiciary. Mr. Pradhan said that the aim of the planning meeting was to discuss the content, methodology, resource person, participants of these programs. He proposed holding three need assessment meeting in the field in July. The first meeting, he said, will be held – by adopting to the social distance and other safety measures – with the province chief minister, ministers and key officials (not more than 10). The second meeting will be similarly held with the speaker, deputy speaker and committee chairperson of the province assembly. The third meeting will be similarly held with the chief judge and judges of the Province 2 High Court, Janakpur. He said that since the chief minister, chief attorney of the Province 2 and former deputy prime minister is also present in today's meeting, he requested them for their suggestions to make the programs effective.

5. Remarks/Feedbacks from the Participants:

■ Mr. Dipendra Jha, chief attorney of Province 2

Mr. Jha thanked the Embassy of Switzerland for taking the initiative to support the Province 2. He said that even during the planning phase of the project, they had suggested holding need assessment meetings first. Therefore, he welcomed the suggestion made by Mr. Pradhan about holding field level assessment meetings. He said that despite the situation of coronavirus, small gatherings can be safely held by maintaining distance. Given the importance of the program, he said there should not be any more delay. He said that he will also take the initiative to talk with the key stakeholders in the province to facilitate the program.



■ Mr. Lal Babu Raut, Chief Minister, Province 2

The chief minister appreciated the efforts made by the NLS and the Embassy of Switzerland for attempting to support in the effective governance of the Province 2. He recalled his association with the NLS during the time of constitution-making and said he understands the strengths of the NLS and is confident about the success of the project. He also recalled the NLS support in law making during the first year of his tenure as chief minister. It helped in establishing system, he said. He said that the situation and expectations of people in Province 2 is different. He said he struggles to convince the people about the importance of following system of governance and not merely asking for results. Hence, he said this program can help a lot. He said that if this program could have been held in March, it would have helped the Province 2 in formulating its policies and programs. In any case, despite the delay the program should proceed, he said. He said the involvement of former chief justice and former deputy prime minister will ensure that it is effective. It is not easy to hold any kind of program in Province 2

and participants do not stay for the entire period of programs, he said. But, he added, the involvement of former deputy prime minister and the former chief justice as well as other high profile personalities will help in making the participants take part in the program seriously. He urged the NLS and Embassy of Switzerland to expand this kind of program to support the local governments as well since they have become the foundations of governance.

■ Mr. Upendra Yadav, former Deputy Prime Minister and leader of Janata Samajbadi Party

At the outset, Mr. Yadav thanked the NLS and the Embassy of Switzerland for the program. He said that he had expected this kind of support program a year earlier but it has not lost relevance even now. The government of Province 2 is different than governments of other countries in terms of political or ideological dimension. The socio-economic condition of the Province 2 is also unique. Hence, he said, the proposed program can help in formulation and implementation of plans and programs of the Province 2. He said that one-time support will not be adequate, though. He agreed that it is not easy to carry



out any development program in Province 2. So, this program can have long term impact on province governance. He also said that members of province assembly in Province 2 also require capacity building through orientation on law making process, content knowledge and procedures. This, he said, can ultimately benefit the people of Province 2 through quality law-making. In the judiciary, too, he said that he had looked at different reports during his tenure as Law Minister and found that the problems of crime, corruption and justice-dispensation are of different nature in Province 2 compared to others. He suggested a study of nature of crimes that take place in Province 2 and relevant intervention. He asked the project to complete the need assessment in July and start the activities subsequently. He said he will also render his help wherever possible.

■ **Mr. Khim Lal Devkota, senior advocate and NLS member**

He said that he agrees with most of the remarks made earlier. He said that one cannot wait forever to let the coronavirus crisis end. Therefore, he suggested holding programs in safe manner. He also expressed happiness that both the chief minister and the former deputy prime minister who is a prominent leader of Province 2 have expressed their commitment to the program. This commitment, he said, will go a long way in holding successful programs.

■ **Mr. Kalyan Shrestha, former Chief Justice**

Mr. Shrestha said that Province 2 was a model for measuring the success of operationalization of federalism. If the

Province 2 is successful, it can provide example

to other provinces, he said. Mr. Shrestha appreciated the commitments by chief minister and former deputy prime minister. He requested the Embassy of Switzerland to help bring out a study report to analyze the challenges faced by Province 2 in the operation of the constitution, its good examples and lessons learned. The study report can analyze the functioning of the province government, assembly and the judiciary, he said. The report can be beneficial to all those who are involved in facilitating the implementation of the constitution. He also suggested holding the programs at local level, too, as recommended by the chief minister. He said he will be involved in the need assessment programs in order to design programs based on need. That apart, he said, he would like to urge the NLS and the Embassy of Switzerland to carry out programs to support the judicial committees of the

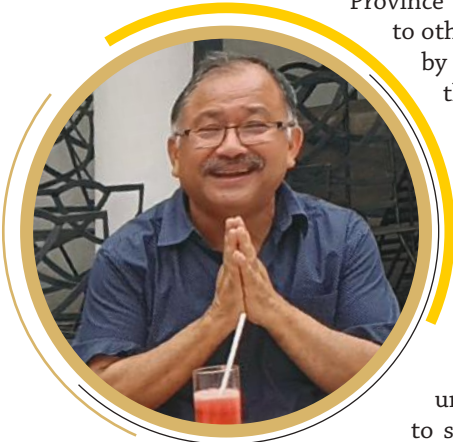
Province 2 to help them establish the

system of local level justice dispensation in

the spirit of the constitution.

■ **Mr. Uma Shankar, Expert**

Mr. Uma Shankar supported the plan to hold the need assessment programs in July. He said that if the programs are planned as per the suggestions made by the chief minister, former deputy prime minister and chief attorney, they will be successful. He expressed his commitment to help the programs become effective.



■ Ms. Pratigya Banskota, Embassy of Switzerland

Ms. Banskota said she was very pleased with the planning meeting with the involvement of chief minister and former deputy prime minister. This, she said, will make the implementation of the programs much more effective and successful. Based on NLS experience and expertise, she said, the programs will deliver the outcomes that are expected. About the field level need assessment program, she said that although it is important the field program may be affected due to the coronavirus situation. She said all the protocols and safety measures suggested by the government of Nepal have to be followed. The involvement of the Embassy in the need assessment meeting may depend on the situation, she said. She added that since the Embassy has already extended the project period, one should not hurry but take steps based on the evolving situation with focus on quality.



■ Mr. Ngudup Tshewang, Embassy of Switzerland in Nepal

Mr. **TSHEWANG** also expressed happiness to have a high level meeting even during this crisis. He appreciated the commitments expressed by the speakers and said that it is a big achievement for the project. He said the remarks made by the high level participants will be shared within the Embassy as well. He also said that his attention has been drawn about the recommendations made by former chief justice to carry out the study as well as to support the judicial committees. They will be further discussed, he said. About the physical presence of Embassy officials, he said that they are not allowed to do so and in case anybody goes he/she will have to stay in quarantine for 14 days. Hence, he said that the Embassy will inform later about their presence in the need assessment programs. However, he said that they have no objection regarding the holding of the programs themselves by adhering to safety measures.



Response by Mr. Pradhan:

Mr. Pradhan thanked all the speakers for their valuable suggestions. He assured that the field programs will be held by sticking to their suggestions and the safety measures.

6. Decisions

- Field need assessment meeting will be held in July by adhering to health and safety protocols,
- Three field need assessment meetings will be held in Janakpur – with the province executive, legislature and judiciary,
- From the center, former deputy prime minister Mr. Upendra Yadav, former chief justice Mr. Kalyan Shrestha, CA member Mr. Khim Lal Devkota and Mr. Uma Shankar will take part in need assessment meetings.

Nepal Law Society/Embassy of Switzerland in Nepal

Program on

Support to Good Governance, Law Making & Justice Delivery in Province - 2**Need Assessment meeting with beneficiaries**

Janakpur ● 13-15 October 2020

Proceeding Report**1. Background**

The Constitution of Nepal 2015 laid down federal system of governance in the country with three tiers in place. For the first time in the Nepalese history, seven provinces were created. During the People's Movement II of 2006/07, demands were made for federal transformation of the country in order to better realize the development aspirations of the people through democratic and inclusive manner. People from Province Number 2 were in the forefront of such demand. As a result of the Madhes movement, the political parties expressed their commitment to adopt federal system, which was later enshrined in the Constitution. The Constitution provided for federal division of executive, legislative as well as judicial powers with separate Schedules specifying the areas of exclusive and concurrent jurisdiction of federal, province and local level.

As such, all provinces in the country have already elected provincial governments, and assemblies and now are in operation. As per the constitutional requirement, they have to formulate laws and enforce them as well in areas that are assigned under their jurisdiction in the Schedules of the Constitution. The first elections for the provinces were held in 2017 and in the subsequent years they have been working hard to carry out their constitutional obligations. In this course, they have also faced numerous challenges and have recorded some achievements. Similar is the case with the judiciary at the province level. Although the Constitution provides for unitary model of judiciary, the High Courts at provinces need to coordinate with the provincial apparatus for effectiveness of the judiciary in Provincial level.

Few years have passed since the adoption and operationalization of federal system of governance, hence, it is pertinent to look at the status of their achievements and challenges. There is a need to identify issues to overcome through dialogue among the provincial government, assembly and judiciary. In this course, the Nepal Law Society (NLS) has joined hands with the Embassy of Switzerland in Nepal to work in partnership with the stakeholders from Province Number - 2. The aim of the initiatives is to help identify appropriate future initiatives to support the Province Number - 2 in maintaining good governance in the executive, legislature and judiciary. As a part of this support initiative, a field visit was conducted by a team of NLS.

2. Field Visit

The field visit was conducted on 13-15, October in Janakpur to hold meetings with major stakeholders including government, province assembly and judiciary.

3. Field Visit Team Members

The field visit was undertaken with the participation of the following members:

●	Mr. Kalyan Shrestha, former Chief Justice
●	Mr. Upendra Yadav, former Deputy Prime Minister
●	Mr. Khim Lal Devkota, CA Member
●	Mr. Krishna Man Pradhan, Executive Director, Nepal Law Society
●	Mr. Uma Shankar Prasad, Professor
●	Ms. Saraswoti Dangol, Advocate

4. Objective

- To discuss with the Province Number - 2 government on the state of good governance, contribution to federal structure, challenges and opportunities, and to determine resource person for facilitating future programs,
- To discuss with the Province Number - 2 Assembly on the contribution, challenges and opportunities of law making, and to determine resource person for facilitating future programs,
- To discuss with the stakeholders of judiciary from Province Number - 2 on their contribution, challenges and opportunities, and to determine resource person for facilitating future programs.

5. Summary of the Meetings

5.1. With Province Government

With the objective of reviewing the tasks carried out by the province government in the last three years; in order to discuss ways of improving the good governance, service delivery and development for the fulfilment of aspirations of the people, a discussion was held on October 14 (4.30 pm – 8.30 pm). The meeting was held jointly by the Chief Minister's office and the Nepal Law Society. Chief Minister, ministers, provincial Chief Secretary and secretaries of all ministries of the Province Number - 2 government participated in the meeting. There were 25 participants altogether.



The meeting was chaired by the Chief Minister Mr. Lal Babu Raut. Former Deputy Prime Minister Mr. Upendra Yadav attended as the chief guest and former Chief Justice Mr. Kalyan Shrestha attended as the special guest. Mr. Krishna Man Pradhan, Executive Director, welcomed to all participants and highlighted on the objective of the meeting.

● Issues Presentation

Chief attorney of the Province Number - 2 Mr. Dipendra Jha and senior advocate Mr. Khim Lal Devkota highlighted on the review of the works performed by the province in the past three years and spoke about the challenges, the province faced. They underscored the presence of internal and external challenges in the implementation of the federal structure. Likewise, they shared the state of coordination among various ministries and between the ministries and the office of the chief

minister. They also shared the achievements made in the development sectors such as education, agriculture, administration, law and order and legislative process. At the end, they detailed about the way forward for the Province Number - 2 government. In a nutshell the Paper highlighted executive, legislature and judiciary constraints, challenges and opportunities too.

Professor Uma Shankar Prasad spoke on the things to be considered while the province government formulates its budget. He suggested ways to improve the socio-economic conditions of the people living in the province.

Former chief justice Mr. Kalyan Shrestha focused his remarks on things that the province government needs to focus when formulating Bills so that they are compatible with the constitutional obligations and schedules. He also shared the importance of coordination with the province assembly and judiciary. He shared that it is the duty of the province government to implement the laws passed by the province assembly as well as verdicts delivered by the judiciary. He also emphasized the importance of motivation and incentives for the chief secretary, secretaries and staffs of various ministries of the province government in order to ensure efficient and effectiveness in administration. Further, he appreciated by saying that, since the province number - 2 government has taken more initiatives to implement the federal structures, it has been able to demonstrate its identity as expected. Mr. Shrestha added that lack of laws has hindered in the smooth functioning of federalism. He urged the province to seek support from experts while formulating policies and programs. He advised conducting research prior to formulating any law/policy. He said that the province should also facilitate the local level in this process. He said that since Province Number 2 faced crimes such as under-age marriage and rapes, it should prioritize formulating laws to address these crimes.

Chief Guest former Deputy Prime Minister Mr. Upendra Yadav shared his happiness by saying that, this was probably the first instance of such high level meeting with the participation of Chief Minister, ministers and secretaries of the Province Government. He said the meeting will help in further improving the relations among the ministers and the secretaries in the days to come. He said he wishes to hear about success and great efforts at formulating and implementing budget and good governance in the province since he feels his attachment towards this province. He called for better coordination among ministers and secretaries. He suggested that special strategies might be necessary to maintain internal and external coordination. He also shared his commitment by saying that he is always ready to play role of facilitation or political coordination as and when required. He shared his frustration as he heard that bureaucrats did not want to be transferred to the Province Number - 2 but he also assured that such problems will be resolved after civil service laws are formulated by the province Assembly. He advised that the government should seek suggestions from the experts while drafting such laws.

He highlighted constraints of the provincial governments such as lack of law, lack of resources and lack of functional wings i.e civil servants and others skilled human resources. As per him, the concept of federalism is all about power devolution but the Federal Government has treated it as a decentralization. This is a huge conceptual gap which has hindered the implementation of federalism in the country. Unitary and centralized system of governance has been federalized by the constitution but social transformation by laws are yet to be done. He also shared that, infact, federal units are not devised as per the letter and spirit of the Constitution.

He suggested the ministers and secretaries to follow the Constitution, make effective provincial coordination, invite expert for drafting law sand prepare for new beaurocratic structure minimizing expenses and use given opprotunities properly. He also added that instead of endlessly waiting for the federal laws, the province should begin formulating laws under its exclusive and concurrent rights and the courts shall subsequently address any inconsistency. He said this is the opportunity for institutionalizing federalism. He urged for initiatives to formulate standard laws and their implementation.

- Discussion among participants:

Out of total 25 participants about 10 participants spoke on the issues including Mr. Gyanendra Kumar Yadav, Minister, Internal Affairs and Law Ministry; Mr. Sailendra Shah, Minister, Land Management and Agriculture and Cooperative Ministry; Mr. Bijaya Yadav, Minister, Financial Affairs and Planning Ministry; Mr. Jitendra Sonal, Minister, Physical Infrastructure Development Ministry; and Mr. Arjun Prasad Pokharel, Chief Secretary, CMP. Each and every minister and secretary at the meeting gave a brief overview on their performance. They spoke about the challenges they have faced, the level of coordination and cooperation. They worried that they lacked adequate coordination in certain areas.

Ministers from various ministries focused on their own activities such as crime control, covid control, disaster management, and coordination among all local bodies though they shared they are experiencing lack of coordination from the Federal Government. Number of issues has been raised on the intergovernmental fiscal council but not implemented yet. They shared that since civil servants are loyal to the federal government, how they could be mobilized from provincial level is a big question. They also shared that they are trying their best to fulfill the aspiration of the people despite limited resources. As per them, the mindset of the federal government is problematic. They are misinformed to create a bad image of the province by the Federal Government.

They also shared they are facing lack of budget on the one hand and problem of inability to spend on the other. It is because of lack of civil servants as implementing agencies, they said.

Chief Secretary reassured that their loyalty is with the province government and tried to reconfirm that they are there for result oriented work. He said there was expert institutional gap and capacity gap of the provincial government. He also spoke about the expectations of the government and the commitment to serve the province government.

At the end, ministers and secretaries advised the Nepal Law Society to focus its support program on good governance, Bill making, formulation of policies/programs, and external/internal coordination.

- Remarks from the Chairperson

The Chief Minister from Province Number - 2 wrapped up the meeting by thanking the former Deputy Prime Minister and other senior dignitaries for their presence. He felt that the meeting provided an opportunity to talk about their contribution as well as weaknesses. For him holding this kind of meeting from time to time will lead to better coordination and excellent relations. He shared his commitment by sharing that the Government of the Province Number - 2 will give specific inputs once the Nepal Law Society provides detailed framework of their support program to be held in near future.

As the chair of the meeting the Chief Minister summed up the meeting with his remarks. While giving his concluding remarks he also shared that the problem is only the unitary mindset and the non-implementation of decisions of the Inter-provincial Council.

Suggestions by the Participants

- Law making is proceeding but since the federal level has not formulated necessary laws it has hindered their work
- Challenges in law enforcement because of lack of police/administration under province control
- Lack of coordination between ministries and office of the Chief Minister has obstructed in formulation of good laws and their implementation
- Problem in revenue distribution due to lack of functioning Fiscal Commission
- All central level leaders are center-oriented resulting in weak provinces
- Parties that are against federalism are at the driving seat whereas federalists are in the provinces resulting in friction

- Nepal Law Society should devise its support program to focus on law making, coordination among ministries and between government and assembly.

5.2. Interaction/Meeting with Province Assembly

With the purpose of discussing the contributions, challenges and opportunities of the Province Assembly of Province Number -2, in course of its law making in the past three years, a meeting was held with the presence of Speaker, Deputy Speaker, chairpersons of various committees of the province Assembly, and chief whips and whips of different political parties on October 14 (11.30 am – 2.30 pm). The meeting was held jointly Provincial Assembly and Nepal Law Society.



The meeting was chaired by the Speaker of the Assembly Mr. Saroj Yadav. Deputy Speaker, various committee chairpersons, chief whips and whips of different parties, and staffs of the Provincial Assembly Secretariat participated in the meeting. There were 23 participants altogether. Mr. Krishna Man Pradhan, Executive Director welcomed to the participants and highlighted on the objectives of the meeting.

The Chief Minister of the Province Number - 2 Mr. Lal Babu Raut was the chief guest at the meeting. Former Deputy Prime Minister Mr. Upendra Yadav and former Chief Justice Mr. Kalyan Shrestha were the special guests at the meeting.

● Issues Presentation

Chief Attorney of the Province Number - 2 Mr. Dipendra Jha and senior advocate Mr. Khim Lal Devkota highlighted the achievements made by the Province Assembly in the last three years and reviewed the activities and challenges of the Assembly, committees and sub committees. They shared about internal and external challenges in the implementation of federal system in the province. In a nutshell, the Paper highlighted executive, legislature and judiciary constraints, challenges and opportunities too. They shared that the province assembly has passed 31 laws and 7 are currently under consideration in different. The committee members also undertook various monitoring activities related to control of Covid 19, and drew the attention of the province government. They also recommended on the future course of the Assembly .

Special guests Mr. Kalyan Shrestha and Mr. Upendra Yadav gave their inputs to the assembly, committees and sub committees regarding the provincial lawmaking process. They asked them to



be mindful about the constitutional obligations and the exclusive/concurrent areas of jurisdiction as specified in the schedules of the Constitution. They recommended that the committees and sub-committees of the province assembly need to hold detailed discussions on the bills and reach consensus. If consensus cannot be reached, the members have the right to put their note of dissent, they said. They said that the provinces should go ahead and formulate laws under their jurisdiction, which can be amended if found by the court to be inconsistent with federal laws. They urged seeking expert suggestion in law making and publicizing the process through media for wider participation. Adopting parliamentary supremacy instead of constitutional supremacy may invite problems. They both called for greater coordination between the government and the assembly in law making. Formulating laws in a hurry can compromise their quality, they added. They urged for building capacity of staffs and sticking to democratic methods in law making.

● **Remarks from Participants**

Out of 23 participants, 10 participants spoke on the issues including Mr. Manish Kumar Suman, Chairperson, Economic and Planning Committee; Mr. Ashok Kumar Yadav, Chairperson, Provincial Affairs Committee; Mr. Shek Abdul Kalam Aajad, Chairperson, Development Committee; Mr. Ram Chandra Mandal, Chairperson, Natural Resource and Environment Committee; Mr. Jaynul Rain, Chairperson, Women, Children and Social Justice Committee; Mr. Ram Saroj Yadav, Chairperson; Mr. Shailendra Kumar Yadav, Chief Whip; Mr. Parmeshwar Sah, chief whip; and Ms. Sabitri Devi, Chairperson of various



committees, chief whips and whips complained that provincial government does not consult with the stakeholders before drafting a Bill. And since the members of the assembly lack skill and knowledge, the quality of the bills are not high. They asked the Chief Minister to consider their request to formulate bills based on priority and consultations. They also asked him to ensure that provincial government formulates appropriate rules and regulations once the Act is passed by the provincial assembly.

The very fact is that the Assembly has been working almost on the consensus basis despite a lot of differences among members of ruling and opposition parties. All the participants highlighted that they are working for the province and people but proper cooperation is not received from the federal government. Relevant legislations on the concurrent list has not been made either by the federal parliament or by the provincial assembly. That has hindered the functions of the provincial and local government. Laws related to social transformation, public services and use and sharing of natural resources are yet to be made. The law of fiscal transfer and revenue sharing has been made by the federal government before the election of provincial assemblies which is entirely against the spirit of the federalism and has hindered provincial jurisdiction.

To the Nepal Law Society, they advised that the future program should take into consideration the importance of province assembly, things that the assembly should focus on while drafting laws, and the detailed roles and procedures of the assembly committees and sub-committees. As per them, incorporating these aspects in its programs will be helpful and fruitful.

Thanking on behalf of the organizers, Professor Mr. Uma Shankar Prasad shared that the meetings were quite effective and fruitful. He promised that their suggestions and feedbacks will be accorded top priority during the implementation of support program.



After the remarks and suggestions from the participants, Chief Minister Mr. Lal Babu Raut gave vote of thanks to the Speaker, committee chairpersons and chief whips for their support. He committed by saying that the provincial government will pay heed to their suggestions in future while formulating Bills.

At the end, Speaker of Province Assembly Mr. Saroj Yadav thanked all the participants, the Chief Minister, special guests and the organizers. He emphasized that the Province Assembly was focused on democratic law making and will pay attention towards formulating quality bills in the days to come.

Suggestions from the Participants

- Change the method of law making
- There should be better coordination between the government and the assembly on Bill making
- Activate the assembly committees; provide them with resources to hold dialogue with stakeholders
- Since Terai has unique situation, laws should also be formulated accordingly
- Do not formulate laws in a hurry
- Since Province 2 lags behind in education and health, allocate adequate laws and resources to improve the situation
- Formulate programs focused on helping women, Dalit and backward communities
- Nepal Law Society should focus its support program on enhancing skill/knowledge of assembly members on content of law, procedures of law making and prioritization

5.3. Meeting with Judiciary

With the purpose of identifying areas to focus in the support program, a meeting was held jointly by the High Court, Janakpur and Nepal Law Society on October 14 (8 am – 11 am). Chief Minister of the Province Number - 2 Mr. Lal Babu Raut, former Deputy Prime Minister Mr. Upendra Yadav and former Chief Justice Mr. Kalyan Shrestha attended the meeting. There were 22 participants in the meeting including the Acting Chief Judge of the High Court, judges, and court officials. The meeting was held jointly High Court of Janakpur and Nepal Law Society

The Acting Chief Judge Mr. Pushpa Raj Koirala chaired the meeting in which Nepal Law Society Executive Director Mr. Krishna Man Pradhan briefed about the objectives of the meeting and support program.

● Issues Presentation

Chief Attorney of the Province Number - 2 Mr. Dipendra Jha and Senior Advocate Mr. Khim Lal Devkota highlighted the achievements and challenges faced by High Court and District Courts in the Province in course of their judicial service delivery. They shared that since the service-seekers in the Province are unique, the courts need to tailor their service-delivery to match the needs and



aspirations of the people. They also said that most cases in the courts filed in this province were related to crimes, trade disputes, violence against women, marital disputes, land and contractual disputes. They advised the judicial administration and judges to take these aspects into consideration. They suggested that organizations like Nepal Law Society can hold programs to study the nature of cases, state of service-providers, expectations of service-recipients in order to support the good governance, human rights and rule of law in the province.

Judges and registrars of the courts spoke on the state of service delivery, challenges they have faced and about the nature of cases they confront, as well as the state of implementation of court decisions. They said that the support program will be effective if the Nepal Law Society conducts research and discussion on these issues.

Out of 23 participants about 10 participants spoke on the issues including Mr. Khadga Raj Adhikari, Judge, Registrar, High Court Janakpur; Mr. Brajesh Pyakurel, Judge, District Court Dhanusha; Mr. Dhursa Raj Nanda, Judge, High Court Janakpur; Mr. Ujjal Shukla, Judge High Court Janakpur; Mr. Upendra Prasad Gautam, Judge, District Court Dhanusha; Mr. Khadananda Gautam; Government Attorney, Janakpur; Mr. Bikas Basnet, Shrestadar, District Court Dhanusha. Participants raised the issues on lack of proper law. As per them most of the decisions has been made based on improper laws and such decisions are then challenged in the court. There is no alternative to quashing of such decisions. In this scenario, court will be unable to support province assembly and their decisions. Provincial and local governments have to maintain their decisions based on proper laws with the application of due process.



Chief Minister Mr. Raut, chief guest Mr. Yadav and special guest Mr. Shrestha gave their brief remarks at the meeting. They shared that the courts should focus on ensuring accessible and cost-effective justice. The court should hold special program to ensure that, they said.



The Chief Minister shared that the provincial government stood ready to provide whatever assistance the courts needed. He added that through the office of chief attorney, the provincial government was already helping in the repair and maintenance of court building, toilet construction, furniture management etc. He committed that the provincial government will expand such assistance in the coming days. Mr. Shrestha urged the courts to provide free legal aid to those in need. Mr. Yadav shared his commitment by saying that he would facilitate if there is any need to coordinate with federal parliament or province assembly on law making.



Speaking on behalf of the organizers, Professor Mr. Uma Shankar Prasad expressed his happiness as the program was highly effective and promised to pay heed to the suggestions while implementing the support programs.

At the end, acting Chief Judge Mr. Pushpa Raj Koirala said that he felt the meeting was productive and appreciated the high level participation. He urged Nepal Law Society to carry out their support program to help the courts in legal, physical and economic matters for better service delivery. He thanked all the participants for their suggestions and feedback.

Suggestions from the Participants

- Bring laws and budget to motivate the staffs of the Province 2
- Conduct research on cases filed at courts in Province 2, and the court decisions before formulating future strategy
- Province government should work to build physical infrastructure and enhance capacity of the courts and government attorneys by mobilizing the office of the chief attorney
- Province and federal level should formulate special laws since existing laws are not appropriate
- Given the different nature of crimes in the province 2, they should be looked at from the social, economic and political perspective
- There should be interpreters in each court and office of chief attorney
- Expand free legal aid an legal literacy program
- Nepal Law Society should focus its support program by carrying out research and providing capacity building training for judges and court staffs, increasing access to justice and easy service to recipients

6. Outputs of the Meeting

6.1. From the Province Government Meeting

- Participation by Chief Minister, and all ministers,
- Participation by Chief Secretary, and secretaries of all ministries,
- Clear and substantive exchange of ideas among chief minister, ministers and secretaries on government operation procedures and their roles, obligations and weaknesses,
- Detailed discussion regarding coordination, cooperation and coexistence among ministers and secretaries, with the commitment to respect each other,
- Discussion on internal divisions between ministers and commitment to coordinate in future,

- Chief Minister and ministers committed to provide motivation and respect to ensure long term working environment for chief secretary and secretaries,
- Presence of former deputy Prime Minister Mr. Upendra Yadav and former Chief Justice Mr. Kalyan Shrestha motivated the participants to participate and speak clearly.

6.2. From the Province Assembly Meeting

- Presence of Mr. Upendra Yadav and Mr. Kalyan Shrestha helped ensure participation by Speaker, Deputy Speaker, Chief Whips of major parties, committee chairperson, Secretary of Assembly and senior officials,
- It was the first time that the Chief Minister participated in informal meeting with the Assembly, which helped in improving coordination and cooperation between the provincial government and provincial assembly,
- Meeting provided the opportunity to the assembly to request the Chief Minister to hand over quality Bills; and to the Chief Minister to request the Assembly to pass the Bills on timely manner,
- With the participation of party leaders as well as speaker and committee chairperson, the meeting provided the opportunity to review, in cordial atmosphere, the achievements and weaknesses in the past three years,
- It was concluded that the Nepal Law Society should finalize subject matters and resource person so as to ensure enhancement of skills and capacity of members of the assembly, and committees,
- Proposed program to be distributed to the speaker and committee chairperson after Dashain and based on their feedbacks, the program to be finalized and carried out.

6.3. From the Meeting with Judiciary

- First meeting among provincial chief, chief attorney, high court and district court judges,
- Presence of Mr. Upendra Yadav and Mr. Kalyan Shrestha helped in ensuring high level participation and productive discussions,
- Opportunity to have clear dialogue regarding contributions made by courts in the province and the challenges and opportunities faced by them,
- Judges, registrars and court officials could engage in clear discussions because of the presence of former chief justice,
- Nepal Law Society requested to hold proposed program that aim at enhancing the capacity of the service-providers.

7. Success Stories

- Participation by former Deputy Prime Minister and senior leader from Province Number 2 Mr. Upendra Yadav and former Chief Justice Mr. Kalyan Shrestha ensured productive participation in each meeting with the provincial Government, Assembly and the Judiciary,
- Participants stayed full time during all the meetings where they not only gave their remarks but also expressed commitment to work in joint programs,
- Mr. Yadav gave clear instructions to end the political and administrative conflict, and reduce corruption
- Opportunity for the participants to put forth their actual problems
- Chief Minister and leaders of Province Number 2 got the opportunity to learn about the state of affairs in the government, assembly and judiciary; which will help them to forge necessary programs in the coming days.

Issues for discussion

Nepal Law Society

Experiences of Province 2 in the Executive, Legislative and Judicial Sector in the last two years, and the way forward for the coming days and challenges

After the elections for the members of province assembly in November, 2017, the government of the Province 2 was formed on February 15, 2018 under the chief minister ship of Mr. Lal Babu Raut. I am thankful to the chief minister and the government of Province 2 for appointing me as the first chief attorney of Province 2. The Province 2 has important role to play in the implementation of the constitution of the federal democratic republic of Nepal. We understand that there is much wider interest on Province 2 regarding its current and future role in the successful implementation of federal constitution and take it as both challenge and opportunity. In this connection, we would like to present our work experiences and challenges during this period as follows.

Executive- Provincial Government

The internal and external opportunities and challenges are presented as thus.

1. Internal

- Three budgets have been passed and implemented
- Programs such as Save Daughter, Educate Daughter; five kilometer provincial roads and structure developed in each constituency; payment of loan and interest for Covid-affected peasants; PCR testing machines in all districts; four new district hospitals; relief for poor corona-affected families; and passage of Dalit Empowerment Act, Police Act
- Province Policy Commission, Public Service Commission formed and are under operation
- Province government expressed commitment to good governance by passing Jan Lokpal Bill
- Details of other effective programs performed by the executive are long. The ministers will also give their remarks. These works also need to be communicated with the people so that they can know about things that have been done

Challenges:

- Lack of desired cordiality and cooperation/coordination among ministers
- Questions raised on fiscal discipline needs to be addressed
- Members of even ruling parties have complained that programs and budgets are dispersed by looking at district, constituency and cliques
- Lack of visibility of province government at local level
- No specific framework of coordination and cooperation with the local level governments
- Province Coordination Council not able to meet; and even if it met it was unable to effectively coordinate resulting in lack of positive perception among local level
- Province not yet able to create the apparatus of its staffs and security personnel by utilizing the Article 302 of the constitution related to formation and operation of Province Government Service
- Lack of effectiveness in the budget expenditure, lack of results, lack of proper communication of results etc

- Although strongly dealt with the federal government regarding the rights of Madhes and Madhesi people, not able to similarly address the issues of Dalits and marginalized communities in the province. Lack of sensitivity towards Dalit interests has led to frequent movements by the community

Likewise, the Acts and laws on public welfare have not been effectively implemented for example Jana Lokpal and Dalit Act. Lack of effective planning implementation on Covid control and welfare of those affected economically.

2. External

All the other six province governments and the different province-level agencies have been providing moral support to the challenge posed by the Province 2 government whenever the federal government attempted to violate the rights of the provinces. All seven province governments are, in principle, agreed that the federal government is trying to control the police, administration and delegated rights of provinces, but the responsibility of leading the voice rests with Province 2.

Challenges:

- The central government is deliberately delaying the formulation of necessary federal laws as per its strategy to constrict the jurisdiction of provinces
- Unnecessary delays by the federal government in staff and police adjustments means that the province government does not have necessary control over security bodies and administrative bodies
- Staffs depute from the center are not accountable to the province government
- Lack of democratic values, capacity and efficiency in the exercise of executive authority
- Bureaucracy non-cooperative to political leadership and the political leadership, too, unable to create environment to effectively deploy staffs

Specific Challenges:

- 1. Province Public Service and Province Bureaucracy:** The federal government itself has said that as per the administrative organization structure, there is a need for 2400 staffs but has only deployed 450 staffs. This is only 10-15 percent of total staff requirement. The Bidhyadhar Mallik-led Province Administrative Structure Formation Commission formed by the province has stated the need for 5000 staffs. These numbers are in line with the budget passed by the parliament. Hence, the adjustment ordinance is inadequate to fulfill the staffs required by the province. So, Province Public Service Commission should, as per the Article 244(3) of the constitution, immediately start recruitment in vacant positions as per the Adjustment Act Clause 12(1). There should not be delay in the formation of the province's own civil service.
- 2. Open the path to form Province Police:** Despite some delay in police adjustment due to Covid 19, the provincial police structure has already come into operation. The Schedule 6 of the constitution puts law and order and exclusive right of province. Hence, in the context of implementing the Act formed to operate, supervise and coordinate the works of Nepal Police and Province Police, the cabinet needs to take bold decision by invoking Clauses 12 (1) and 12 (2) related to deployment, mobilization of province police through Internal Affairs Ministry of the province

On Economy

- 3. Amendment of Inter Government Fiscal Management Act:** The Clause 6(2) of the Inter Government Fiscal Management Act states that the money raised through Value Added Tax and excise on internal production be divided among the federal, province and local level – 70 percent to federal and 15/15 percent to province and local level. This matter is under the jurisdiction of

the Natural Resources and Fiscal Commission, not the federal government. Therefore, it is wrong to capture 70 percent by exploiting political transitional period before election. This must be immediately amended. Province government needs planned initiative in this direction

- 4. Formation of Natural Resource and Fiscal Commission:** The government must form the Natural Resource and Fiscal Commission for judicious distribution of resources among federal, province and local level
- 5. Increase Province Development Budget:** Total budget should be divided into 40 percent for federal and 30/30 percent for province and local level
- 6 Tax:** Schedule 6 of the constitution SN 4 specifies vehicle tax, entertainment tax, and house registration taxes for provinces. There is a need for better management of tax and to raise tax that is at least able to support the administrative expenditure of provinces. Tax is the basis of state operation. If province cannot earn its tax and has to depend on federal government, then its autonomy will end. Hence, even though it may add burden to the people, there is a need to search for new sources of tax and to expand the current tax base

On Development

- 7. On Development Agencies:** The development agencies such as Roads, Irrigation, Infrastructure, District Technical Offices and their resources should be handed over to the province government. The Home Minister-led federalism implementation facilitation task force formed by the Inter Province Council had identified some agencies for handover to the provinces. There should not be delay in their handover. Such delays and indifference should be exposed
- 8. Local Projects in Provinces:** The current budget does not align with the spirit of the federalism. Small projects should be at local level, medium level at province and large ones at federal level. But the federal government has cornered all medium scale projects. This budget is aimed at restoring all rights to the center. The federal National Planning Commission has classified and distributed the projects but such distribution is against the spirit of federalism and must be corrected
- 9. Medium Scale Projects:** All medium scale projects must be handed over to the provinces. Federal government should take up projects of national glory, provinces should take up provincial projects and the local level the smaller projects.
- 10. National Policy:** The federal level should be developed as center for national policy formulation. Provinces should be developed as administrative unit and local level as development unit
- 11. Human Development Index and Base of Population:** The process of distribution of development budget should be corrected to ensure that they are done on the basis of population and human development index

On Ministries

- 12. Incoherent framework of ministries:** Law and gun does not go together, which means Law and Internal Affairs Ministry should not be lumped together. Likewise, education, and health should not be lumped together under the social ministry. The industry and forest are also similarly lumped together. This incoherent division of work should be amended

On Education

- 13. Make Provincial Education Service Commission Powerful:** It would be appropriate to authorize the Provincial Education Service Commission to transfer, promote, recruit teachers and build their course/syllabus

On Agriculture

14. Province should have rights on Nursery/Farms: Offices such as Janakpur Fisheries Development and Training Center; and Nawalpur Tropical Crop Center should be under the province

On Administration

15. Bring Chief District Officer under Province authority: There is no need to have chief district officers in provinces. If one must, then their authority can be limited to providing citizenship, passport and border security. Provinces cannot exercise their sovereign authority until CDOs remain in place. Hence, they must be replaced. If centralized laws such as Local Administration Act, Peace and Security Act can be annulled, the authorities of CDOs will automatically be reduced

16. Province to have authority on everyday law and order, and criminal liability: The chief district officer should immediately be brought under the province control or the province be allowed to appoint its administrative officer for the maintainance of daily law and order situation. How effective is it to free the office of the chief attorney from the duty of prosecution? Under the Schedule 6 SN 1, the matter of law and order involves not only arrest and investigation but also prosecution. The Clause 6 (1) of the Federal, Province and Local Level (Coordination and Inter-relations) Act 2020 states that offence and punishment shall be as specified in the federal law. Likewise, Clause 7 (1)(c) states that determining any action as offence and fixing punishment shall be as per the federal law. However, sub-clause (1) (c) of Clause 7(2) states that notwithstanding the provisions mentioned elsewhere, in matters related to operation and administration in province and local level, administrative punishment/fines shall be as per the law. Likewise, Clause 9(1) states that cases that are investigated by province police or province-level body formed as per federal law shall be investigated by the same body or official. This provision in this Act has been brought from the main provision in the Province Police Act. Hence, this problem can be resolved by amending the Province Police Act. These provisions in these Acts are against the constitutional provisions, and letter and spirit of federalism as they recklessly curtail the jurisdictions of the provinces. For instance, it is normal that in course of forest management in province, a quasi-judicial body can impose fine or minimum jail sentence against those who violate the provincial forest laws, but if the province is unable to provide for criminal punishment what is the use of formulating such provincial forest laws?

17. Formulate laws on Trust immediately: Constitution provides jurisdiction over Trust (Guthi) to the province. But the constitution says that it will be as per the federal Act. Hence, the province has not been able to formulate its laws on Trust. This constitution does not allow the province assembly to independently formulate laws on Trust. Most lands are owned by Trusts, and without utilization of lands, development and industrialization are not possible

On Implementation of Reports

18. The detailed report on unbundling or handing over certain offices and matters to province and local level, which was prepared during the tenure of former chief secretary Som Lal Subedi for constitution implementation, has not been implemented. It is regrettable that instead more offices and staffs have been deputed under the federal level. Hence this unbundling report passed by the federal cabinet must be fully implemented. As per the decision made on 2073/5/21, with the intention of developing organizational framework at federal, province and local level, the rights mentioned in the constitution were detailed and a report was prepared. The report was subsequently passed by the cabinet. We demand that the rights under the concurrent list be divided as per the report. That report must be fully implemented without any change. The reports by the High Level Federalism Implementation and Administrative Restructuring Steering Committee as well as the Federalism Implementation and Administrative Restructuring Coordination Committee must be implemented

Just like the Local Level Government Operation Act was formulated based on the detailed work division, and just like the local governments are functioning under that Act, perhaps it will be effective to formulate Province Government Operation Act and insert all those rights in the Act?

Legislature- Provincial Assembly

Although Janata Samajbadi Party (JSP) has the majority in the legislature of the Province 2 Assembly, the Communist Party of Nepal (CPN) and Nepali Congress (NC) are both strong opposition parties given their numerical strength. It is natural that all three forces have different political position and belief. However, in some matters the province assembly has been able to deliver united message to the federal government. Whether it was the resolution of public importance, passed unanimously, related to the citizenship law, the sensitivity demonstrated by the assembly members is welcome. But in the matter of naming the Province 2 and fixing its capital, different positions of different parties have raised obstructions.

Achievements of the Province Assembly

- Passed 31 different laws
- Various 7 committees and other special committees formed. All of them are active as per their capacity
- Assembly trying to be vigilant about development works
- Monitoring the Covid control initiatives
- Frequent moves to draw attention of province government and federal government on matters of public interest
- Attempting to institutionalize the Province Assembly

Areas in which Province Assembly can play further effective role

- Instead of focusing on five principle duties (law making, representing people, acting as watchdog on government and its tests, formation/displacement of government, fiscal control), the assembly seems more interested in budget and development works in constituencies
- Lack of active initiative on examining whether the subject matters of laws or procedures of law making are relevant and in accordance with social need
- Province assembly should focus on drawing the attention of the province government in the enforcement of laws it has passed
- Unable to deliver any different message it has compared to the province executive
- More attention required to institutionalize parliamentary culture and practice
- Need to pay attention to the fact that impartiality is the key aspect of parliamentary norms
- Focus more on coordination between province assembly and federal parliament; and between province assembly and local level
- Parliamentary oversight should be focused on public interest and matters of public concern
- Role of media is ineffective. Instead of focusing on the role played by assembly, the media reporting is concentrated on matters such as facilities and procurements by assembly. Serious debate is lacking
- Lack of institutional capacity. Secretariat staffs also lack efficiency. Lack of parliamentary studies and research
- Whether there is lack of efforts to ensure local level participation while formulating provincial laws?

- Develop province assembly as the place for deliberations on people's voices; monitoring and oversight of province government; and post legislative scrutiny of the state of implementation of laws passed by the assembly

Judiciary- High Court/ District courts – Province-2

Since the judiciary has been developed as a unitary structure, the province does not have direct relations with the judiciary. Especially, it has no role related to the matters of accountability and oversight within judiciary. However, the judiciary does have direct control on province government and assembly on matters related to their administration as well as inconsistencies in provincial laws with the constitution, or on matters related to violation of fundamental rights. In this regard, a number of cases have been filed at the High Court and Supreme Court by making province government and province assembly as defendants. There is a need for debate on how to make the role of High Courts effective on oversight of provincial works.

The province government has been approaching the Supreme Court in order to defend its rights, and to draw attention towards unnecessary legal or administrative control by the federal government. Here, it is the role of the office of chief attorney to defend the rights of the province government and to file any necessary case on its behalf against the federal government. But since the staffs at the office of the chief attorney are deputed by the Office of the Attorney General, there are complications. The judiciary should soon resolve these complications and also speed up the justice dispensation process – the case in point is the case of Sagarnath Forest, which has been going on since 2 years although it is of high importance to the province government.

There should be budget allocable on research policy, planning and programming.

Draw attention towards the importance of soliciting expert help and their advice.

Emphasis should be more on carrying out projects based on needs of the people of the province rather than the ones pushed by development partners.

Parliamentary Practice, Democratic and Inclusive Law Making Process at Province Level Interaction Workshop

Organized by Province Assembly Secretariat and Nepal Law Society

Bardibas, Mahottari, Province 2 ● January 21, 2021

Proceeding Report

1. Background

Matters related to parliamentary practice, democratic and inclusive law making have evolved as per the federal framework espoused by the Constitution of Nepal. Parliamentary practices, issues of constitutional interpretation and federal norms have become matters of intense political interest and debate. On this backdrop, Nepal Law Society joined hands with the Province 2 Assembly Secretariat and Province 2 Chief Minister's Office to organize interaction workshop on January 21 and 22 at Hotel Paawan Mithila in Bardibas.

The federal system in the constitution, and the legislative, executive and judicial practices at provinces, and their inter-relationship have become challenging and complex in the new set up. The practices adopted by Province 2, which is led by the community and the party that led the calls for federalism in the country, therefore, will be of keen interest to other provinces as well. Issues of coordination, coexistence and cooperation among various tiers of federal, province and local level; the horizontal and vertical relations between legislatures and executives, and effective operation of constitutional provisions need to be constructively discussed and debated for smooth implementation of the new constitution. Hence, this kind of interaction workshop helps in conducting serious review of the implementation of the constitution.

As per the Articles 56, 57, Part 20 and Schedules 6, 7, and 9 of the Constitution, there is a need to minutely discuss the effectiveness of the province government, the challenges it has faced, inter-relationships of province government with federal and local level, and coordination. Likewise, the relations between province government and province assembly, matters of cooperation with province-level judicial institutions, too, need to be examined from the viewpoint of constitutional norms and spirit. It is also time to review opportunities and challenges facing the provincial government.

The constitution has provided certain law making authority to the province assembly. It is necessary to assess the state of law making in province, the extent to which it has adopted public consultations, available technical capability on law making, state of implementation of laws, practices adopted by various committees, weaknesses, interventions by federal and issues of coordination and cooperation.

The interaction workshop organized by Nepal Law Society, in cooperation with the Swiss Embassy in Nepal, and in collaboration with Province Assembly Secretariat and Chief Minister's Office was participated by former Deputy Prime Minister Mr. Upendra Yadav, former Chief Justice Mr. Kalyan Shrestha, Chief Minister of Province 2 Mr. Lal Babu Raut, Chairperson of Legislation Management Committee (LMC) of National Assembly Mr. Parshuram Meghi Gurung, Constituent Assembly member Mr. Khim Lal Devkota, Chairperson of National Natural Resources and Fiscal Commission Mr. Balananda Poudel, Professor Mr. Uma Shankar Prasad, ministers of Province 2 government, chairperson and members of Province 2 Assembly Committees, secretary of Province Assembly Secretariat and other

staffs, Executive Director of Nepal Law Society (NLS) and other staffs, chief and other staffs of Civic Initiative Center (CIC) of Janakpur, among others.

2. Resource Person

●	Mr. Upendra Yadav, Former Deputy Prime Minister
●	Mr. Kalyan Shrestha, former Chief Justice
●	Mr. Laxman Lal Karna, Chairperson, Parliamentary Hearing Committee, Federal Parliament
●	Mr. Parshuram Meghi Gurung, Chairperson of Legislation Management Committee (LMC) of National Assembly
●	Mr. Khim Lal Devkota, Constituent Assembly member
●	Mr. Balananda Poudel, Chairperson of National Natural Resources and Fiscal Commission
●	Mr. Krishna Man Pradhan, Executive Director, NLS
●	Mr. Mohan Acharya, senior legal expert, NLS
●	Mr. Uma Shankar Prasad, Professor
●	Ms. Saraswoti Dangol, advocate
●	Mr. Ganesh Man Pradhan, advocate

3. Objectives of the Programs

- To discuss policies and programs of province government; role and challenges of province government in law making in federal framework; role of province government in criminal law making in federal framework to create environment conducive for smooth operation in the coming days
- To support increased effectiveness in the role of province assembly in democracy, parliamentary practice and criminal law making
- To support improvements in the role of assembly committees and their members in carrying forward the province assembly in democratic manner
- To discuss with stakeholders and solicit guidelines from experts by discussing coordination among federal, province and local level on law making, its challenges and opportunities
- To discuss to set up basis parameters on coordination and dispute settlement mechanisms between province and local level
- To discuss the role of National Natural Resources and Fiscal Commission in revenue collection and its judicious distribution, and to exchange experience between province government and assembly on budget formulation and implementation

4. Target Groups

With Province Assembly

Speaker, Deputy Speaker, Chairperson and members of Committees, Chief Whips and Whips of various political parties, parliamentary party leaders, assembly members, staffs of province assembly secretariat

With Province Government

Chief Minister, ministers, state ministers, chief secretary, secretaries, deputy secretaries of province government

5. Key Achievements of Program with Province Assembly

- Around 65 participants including almost all chairperson of assembly committees, members, secretary and staffs were present full-time during the workshop
- Program became effective with the presence of former deputy prime minister of the government of Nepal and senior leader of Janata Samajbadi Party Mr. Upendra Yadav; former chief justice Mr. Kalyan Shrestha; chairperson of LMC of federal parliament Mr. Parshuram Meghi Gurung; member of federal parliament Mr. Laxman Lal Karna; Chief Minister of Province 2 Mr. Lal Babu Raut and Speaker of Province 2 Assembly Mr. Saroj Yadav
- Presence of high-level officials of the province assembly secretariat and discussions on 5 key subjects resulted in their important suggestions, feedback for coming days
- Important feedbacks provided by the province assembly for the federal government
- Laws formulated by province government and assembly to include provisions on penalty and fines
- Commitment on cooperation and coordination on law making between province government and province assembly
- Increased expectation of coordination and cooperation among federal, province and local level on law making and service delivery
- Created basis for improved law making process and standard due to important feedbacks on law making, parliamentary practice, coordination among three tiers, monitoring and implementation
- Provided opportunities to correct weaknesses and lapses made in the past based on the experiences and practices of the assembly
- Produced important reference material based on working papers prepared by experts on five topics

6. Key Achievements of Program with Province Government

- Around 45 participants including Chief Minister, and almost all ministers, province chief secretary, secretaries and staffs took part in the workshop full time
- Presence of former deputy prime minister of the government of Nepal and senior leader of Janata Samajbadi Party Mr. Upendra Yadav; former chief justice Mr. Kalyan Shrestha; chairperson of LMC of federal parliament Mr. Parshuram Meghi Gurung; chairperson of National Natural Resources and Fiscal Commission Mr. Balananda Poudel, and Professor Mr. Uma Shankar Prasad helped in open and fruitful discussions that were solution-oriented
- Presence of high-level officials of the province government secretariat and discussions on key subjects resulted in their important suggestions, feedback for coming days

- Received important feedbacks from province government to federal parliament and government
- Created basis for improved law making process and standard due to important feedbacks on criminal justice system, fiscal federalism, practice of Province 2, opportunities and challenges, parliamentary practice, coordination among three tiers, monitoring and implementation
- Provided opportunities to correct weaknesses and lapses made in the past based on the experiences and practices of the province government
- Produced important reference material based on working papers prepared by experts on six topics
- Commitment made for increased cooperation and coordination between province assembly and province government on law making
- Understanding reached to ensure presence of concerned ministers to inform about bills in the assembly and concerned committees

7. Key Challenges in carrying out the programs

- Due to Covid-19 pandemic, the programs that were designed a year ago could be organized only now
- Even though Province Assembly and Ministers are located in Janakpur, the programs had to be organized in Bardibas in order to ensure full time and active participation of key leaders and secretaries
- With the involvement of senior leaders, chief minister, ministers, and speaker, it was challenging to manage time convenient for all
- Huge pressure to complete workshop with sessions on six topics in a single day
- Difficulty in management of time for senior government officials since they had to attend the program full-time
- Since the workshop could cater to only 50-60 assembly members, many could not attend

8. Key Lessons Learned

- Coordination with high level leadership, chief minister's office, assembly secretariat and NLS resulted in high level and full time participation in workshops
- Ease in ensuring participation, ownership and fruitful discussions due to participation by high level leadership
- Need-based and demand-driven programs are highly effective
- Participation becomes meaningful and effective once it is clear that one's feedbacks will be properly heard
- Long and effective planning, appropriate facilitators and resource persons, and selection of proper content is necessary for effective program
- Long discussions and preparations with the province government and assembly leadership helped in identifying content, resource persons and participants

9. Brief Proceedings of Programs

9.1. Program with Province Assembly:

Parliamentary Practice, and Role of Province Assembly in Democratic and Inclusive Law Making

A. Opening Session

The one-day workshop organized by the Province Assembly Secretariat and NLS was chaired by Speaker of Province 2 Assembly Mr. Saroj Kumar Yadav. Mr. Krishna Man Pradhan, Executive Director of NLS, welcomed the participants including the Speaker, chairperson of committees, chief whips, assembly members, opposition leader, chief minister and other distinguished guests. He shed light on the objectives of the program.

He said that the NLS has been working to provide intellectual and technical support to the federal, province and local level on law making. As a part of that initiative, he said, the NLS has joined hands with the Swiss Government to help in the capacity building and technical support to the province 2 government, assembly and judicial officials, and human resources. He hoped that the program will help improve effectiveness and coordination among province government and assembly, as well as among federal, province and local level. He hoped it will help build clarity on laws related to criminal justice system, role of committee members and improvement in their functions. He said that this program had been designed in last one year and its content and resource persons had been finalized with the feedback from the provincial stakeholders.

B. Remarks from the Guest Participants

■ **Mr. Shatrughan Mahato, opposition leader, Province 2**

Mr. Mahato said that it was important that this kind of program was being organized when the country faced political crisis. He added that given the new concept of provincial federalism in the constitution, it was also important to discuss and review the challenges. He recalled discussions during the making of constitution when most political parties had favoured political stability. He said that Province 2 Assembly had already formulated 42 laws and more were in the pipeline. He suggested the province government to follow methods and procedures while making bills. He said making bills by seeking suggestions from all parties and institutions will make them representative. He pointed at existing problems in coordination among federal, province and local level.

■ **Mr. Ram Saroj Yadav, Nepali Congress parliamentary party leader**

Mr. Yadav said that they have had 3 years of experience of running provincial government. He said that coordination was the key in moving forward. He added that Province 2 had the added responsibility of keeping alive the spirit of federalism as enshrined in the constitution. He pointed at the dissolution of federal House of Representatives by the prime minister. He termed it unconstitutional and expressed concerns about murmurs regarding dissolution of even provincial assemblies. He said that his party was alert on such developments and had been cooperative with province government on the basis of agenda.

He pointed at several problems such as the lack of police force under the control of province home minister, uncertainties regarding provincial civil service, lack of quorum in assembly committees, obstructions in bill passage, as well as in coordination with local level. He said that democracy cannot function without tolerance. He hoped unconstitutional move made against federal parliament will not spread to provinces.

He pointed at laws on operating local level assemblies and expressed concern about tendency to obstruct them on partisan basis. He said that although the Province 2 government had introduced some good policies and programs, the scattering of resources and naming of projects on chief minister by drawing

budgets from several ministries were inappropriate measures. He suggested the chief minister and ministers to coordinate with other political parties and leaders when formulating bills and policies. He expressed satisfaction that compared with other provinces, there were regular practice of questioning the chief minister in province 2. He said such practices could set guideline for other provinces, as well.

■ **Mr. Upendra Yadav, former deputy prime minister of Nepal**

Mr. Yadav thanked the NLS, and Swiss Government for holding program to support the province 2 government, assembly and judiciary. At the outset, he gave suggestions to the assembly members on the law making and implementation. He said lack of knowledge cannot be an excuse. He urged Province 2 to be proactive in its works. He urged them greater study in procedures, methods, jurisdictions on law making. He said that elsewhere local levels are kept under provinces but not in Nepal. He recalled that leaders had assured that these anomalies will be corrected in course of future practices. He said the workshop was designed to help in the capacity building of lawmakers of the province 2. If the province is effective in law making, it can help a lot in safeguarding federalism, he said.

He recalled the constitution making process adopted by India and South Africa. The latter, he said, had adopted the principles of constitution beforehand. He said that no constitution could be full in itself. It requires years of practice to achieve the institutionalization of constitutional norms, he said. Mr. Yadav said that Province 2 had a big role to play in the institutionalization of federalism in the country. He cautioned Province 2 so that it will not provide excuse for ending federalism. He also cautioned against the tendency of copy-paste in law making adding that context of law making is different in different areas. Formulating a law that needs to be amended the following day is not appropriate, he said. He called for increased studies, knowledge and capacity building among law makers so that Province 2 can be a model province. He hoped the workshop will provide necessary knowledge and capacity development on law making. He thanked the initiative by Swiss government to this regard noting that Switzerland was a great example of successful federalism.

■ **Mr. Saroj Kumar Yadav, Speaker of Province 2 Assembly**

Speaker Mr. Yadav said that the feedbacks received from the workshop will be utilized in the days ahead. He said that the assembly had already formulated 42 different bills. He directed the lawmakers and staffs to participate in the program full time in order to get maximum benefit. He hoped that with the help of these kinds of programs, the standard of law making will improve in the coming days.

Presentation of Working Paper and Discussions

Five working papers were presented at the workshop held in collaboration with the Province Assembly Secretariat. The first paper on Role of Province Assembly on Law making process and its Contribution: Coordination with the Government was presented by former chief justice Mr. Kalyan Shrestha and chief attorney of Province 2 Mr. Dipendra Jha. The second working paper on Coordination among the federal, province and local government as per the constitutional provision was presented by Mr. Khim Lal Devkota and the third paper on Coordination between Province and Local Government as per the constitutional provision was presented by Mr. Mohan Acharya. The fourth working paper on Democracy, Parliamentary Practices: Role of Province Assembly on Criminal Law making was presented by Mr. Kalyan Shrestha and Mr. Dipendra Jha. The fifth working paper on Role of Committee Chairperson and Members on law making was presented by Mr. Laxman Lal Karna and Mr. Parshuram Meghi Gurung. Each session had chairperson. First and third session was chaired by Mr. Upendra Yadav. The second session was chaired by Speaker Mr. Saroj Yadav and the fourth session was chaired by Mr. Jayanul Raya, chairperson of Women, Children and Social Justice Committee of Province 2.

First Session

Role of Province Assembly on Law making and Coordination with Province Government

Chairperson

Mr. Upendra Yadav, former deputy prime minister

Working Paper Presentation

Mr. Kalyan Shrestha, former chief justice & Mr. Dipendra Jha, Chief Attorney of Province 2

The session was chaired by former deputy prime minister Mr. Upendra Yadav. The working papers were presented by former chief justice Mr. Shrestha and chief attorney of Province 2 Mr. Dipendra Jha.

Mr. Shrestha noted that the laws formulated during the centralized regime have been in force since last 240 years and no one should feel any inferiority-complex because of their weaknesses. He suggested everyone should make efforts to bring about improvements. He urged implementation of federalism responsibly in order to avoid crisis. He said that standard set by Province 2 in this regard will be of huge importance as it can be emulated by other provinces.

He said it is inappropriate to copy others in the law making procedures. Province 2 is unique and so are others. Each country and province have their own distinctiveness. He worried that the process adopted by Nepal on law making is neither transparent nor participatory. He called for well-thought out process on law making such as policy formulation by preparing green papers and white papers. Inclusive and transparent procedures can strengthen democracy, he said. Legislature, he said, was the first and the last resource for law making. He said it was extra ordinary that Province 2 could formulate 42 laws during this period. He said that it is natural to lack all kinds of expertise and urged the stakeholders to seek expert opinion where necessary. He also called on the lawmakers to recognize issues such as vested interests, limitations and delegated legislative authority. They also need support in private member bill formulation.

He also pointed at the responsibility of provinces in enforcing the fundamental rights enshrined in the constitution. There are 31 fundamental rights in the constitution but federal Acts are not enough to enforce them, he said, adding that provinces, too, require to formulate laws so as to address the issues of inclusion.

■ **Mr. Dipendra Jha, Chief Attorney of Province 2**

Mr. Jha suggested that the province assembly take both practice and principle into consideration while formulating laws. He shared experience of Britain – where in 1653 then parliament wanted to remove Oliver Cromwell. But Cromwell dissolved the parliament triggering bitter conflict between lawmakers and rulers. He also shared his own experiences in Province 2 and said that the provincial civil service bill and Dalit empowerment bill could be exemplary for other provinces.

Mr. Jha termed Province 2 as a model and pointed how the police act was passed unanimously with coordination between the assembly and the government. He said there were some problems regarding jurisdiction because federal acts had confiscated some of the provincial rights. He pointed at situation where provinces could not even grant land, with federal parameters imposed on Trust. He said that in Province 2, primarily in Janakpur, the huge areas of land belonged to Trusts. He also pointed at quick transfers of officials leading to frequent obstructions in the flow of policy implementation. He called for activating committees and making them accountable.

Mr. Jha also explained about the need to develop the system of post legislative scrutiny. He said retired officials and experts can be mobilized for this purpose. He said federal laws that prevented provincial laws from having provisions on fines and penalties were wrongful. He pointed at tendency of federal level to control provinces. He said there was need for unity in the province. He also pointed at many challenges facing the province such as the need to develop laws to develop important projects.

Discussion by Participants on the Paper

The following participants gave their opinions on the working paper:

■ **Chief Minister - Mr. Lal Babu Raut**

The chief minister thanked the members of ruling and opposition parties in the assembly for their cooperation till now. He hoped that the program will help the committee chairperson, members and ministers to improve their working styles in the coming days. He also hoped there will be intensive discussions on the weaknesses in law making, coordination issues, and pressures on law making etc. He said the participants should also discuss about the constitutional spirit, bureaucratic obstructions whereby they always keep themselves at the center and so on. He said even a comma and a full stop and their placing can have big implication in a law. He pointed at the lack of cooperation the province received while formulating act on province police. He said even though the subject was under exclusive list of provincial rights in the schedule of the constitution, there were efforts by the federal government to obstruct it as reflected by the actions of chief secretary. He said there were efforts to empower chief district officer, which, he said, was a position not recognized by the constitution. He complained that officials tried to insert unnecessary phrases in the laws and there was a tendency of awarding (by federal government) those who obstructed more. He said that despite these challenges there were exemplary laws made by Province 2 – such as ensuring 50 percent reservation to women, and 4.9 percent to Khas Arya. For the benefit of Dalit community, which comprised 18 percent of population of the province, there was a separate law, he said.

He said that main challenge of the Province 2 is bad governance and corruption and, hence, the government had introduced a bill on Lokpal. He said that they will continue to work hard to fulfil the constitutional obligations and ensure good governance.

Finally, the chief minister said that the assembly committees should hold discussions on bills and the government will send concerned ministers to the committees for such discussion. Coordination and cooperation between committee members and government ministers/secretaries will help uplift the standard of bills and make them people-oriented.

■ **Mr. Manish Suman, chairperson, Economic Affairs and Planning Committee**

Mr. Suman said that after he became a member of province assembly, he has felt lack of work. He said there had been no work since last four months. He also pointed at lack of knowledge on law making among the members and lack of interest on study. People, too, are disinterested about the laws the provincial assembly is formulating. They only show interest about the building of infrastructures like roads, bridges and drinking water schemes. He said although 42 laws have been formulated, they are least implemented and could undermine the provincial system of governance in the long run.

■ **Mr. Ashok Kumar Yadav, chairperson, Provincial Affairs Committee**

Mr. Yadav said that all of them were currently in new practice. He said that most bills were being sent directly to the assembly by-passing the concerned committees. He said the government should pay attention to these kinds of challenges. He said that the practice of committee discussion will become institutionalized in the coming days.

■ **Mr. Shekh Abdul Kalam, chairperson, Development Committee**

Mr. Kalam accepted there have been weaknesses on the part of the committees but hoped that they will correct themselves in the coming days. He said that lawmakers faced big dilemma as voters only wished to talk about development projects and not the laws. Perhaps, the people need to be taught about the importance of law making and told about features of the laws.

■ **Mr. Lagan Lal Chaudhary, chairperson, Public Accounts Committee**

Mr. Chaudhary said that the workshop was very good as it provided the opportunity for open discussion on positive and negative experiences. He said that the Public Accounts Committee has been discussing the budget expenditures of the government as well as the report of the Auditor General He said the workshop was important in facilitating discussion and exchanging experience on law making. He also suggested the province government to discuss in the Public Accounts Committee before formulating budget. This will complete the parliamentary practice, he said.

■ **Mr. Birendra Prasad Singh, chairperson, Agriculture and Land Management Committee**

Mr. Singh said that everybody faced challenges and problems because the federal system itself was new for the country. He said that during this period the committee received one bill, which is under discussion. He said that the committee lacked subject experts during the discussions. He said the committee members were learning by doing. This kind of workshop will help in developing knowledge, he added.

■ **Mr. Laxman Lal Karna, member of House of Representatives**

Mr. Karna remembered the period of constitution-making. He said that during the final moments the constitution was speedily passed without caring for discussions on each Article. That process was wrong, he said. Regarding the current duty of lawmakers, he said that although people may be indifferent towards laws, it was the duty of leaders to educate them about the importance of laws in day-to-day lives. He said that law making was not an exciting subject but needed to be taken seriously by the people. He cited example of Japan where he said any ministry that wanted a new law would first present the concept to the law ministry. There is 15-member committee in the ministry that drafted the law and also solicited public opinion by printing the draft. In Nepal, he suggested that signature of bureaucrat is not necessary in law draft. A minister can sign and this required the beginning of new practice, he said. With regard to private member bill he suggested empowering the MPs and assembly members as well as strengthening their secretariat.

He said Province 2 can take the lead in this area by forming province level law commission or law drafting committee. He also pointed at the importance of promoting private member bills at province level. He said that legal provisions also needed to take practical aspects into considerations. He gave the example that although criminal code states begging as illegal, it is persistent in practical life. He said that Lumbini Province has started the practice of law commission. He asked Province 2 to seek expert support from NLS in forming law drafting committee.

■ **Mr. Parshuram Meghi Gurung, Chairperson of LMC, National Assembly**

Mr. Gurung said he respected Province 2 as land of ancient sages – Rishi Bhumi. He said the workshop has provided the opportunity to exchange information and experience on law making. He said that there was no need to feel depressed with the slow pace of law making. He said the practice adopted by Nepal was better than Britain where, he said, there was no standing committee for law drafting. Whereas in Britain a law is drafted by temporary committee, which gets dissolved once the job is done, Nepal has committees of permanent nature. He said there were a couple of key stakeholders in law making – the government, the parliament and the concerned stakeholders. If a law is drafted in cooperation with all of these, the law can be appropriate.

He also stated the proper procedure on law making as thus: formulate a policy based on the system, prepare concept based on the policy, determine the objectives, draft the law, seek approval from the law ministry, seek consent in principle from the cabinet, send bill to the LMC, consult with concerned minister and hold discussion. He said that opposition members can move amendments to the draft presented by the ruling party. But amendment cannot be introduced that can alter the very objective of the bill.

Remarks from the Chairperson

■ **Mr. Upendra Yadav, former deputy prime minister**

He said that assembly members were primarily lawmakers. But he pointed at the wrong practice of making various promises to the people while getting elected. The development work is the job of the government, he said, adding that this needs to be informed to the people. He said often problems emerge due to complications due to overlapping. He said the first step of law making should be consultations, followed by study and discussions. He said that pigeon holes of the MPs of the federal parliament are always full. The law has not stopped from having intellectual dialogue. He said achievements of law making can be seen only from the effective implementation. Province 2 lacks experts but that can be brought from other provinces, he said. Mr. Yadav said that lack of balanced approach between federal and province level can endanger federalism. He accused the current federal government of not striking the balance. As a result, the Province 2 has had to file a number of cases at the Supreme Court, he said.

Second Session

Coordination among the federal, province and local government as per the constitutional provision

Chaired By

Mr. Saroj Kumar Yadav, Speaker of Province 2 Assembly

Working Paper Presentation

In the second session chaired by Speaker Mr. Saroj Kumar Yadav, two papers were presented by constituent assembly member Mr. Khim Lal Devkota and advocate Mr. Mohan Acharya.

Paper Presentations

Coordination among the federal, province and local government as per the constitutional provision – Challenges and Opportunities

Mr. Khim Lal Devkota, senior advocate and CA member

Mr. Devkota presented a paper on the coordination among the federal, province and local level. He said that the Act on Coordination and Inter-relations among the three tiers has already been passed by the federal parliament and is considered as second constitution because of its importance. He said the Act came much late – five years after the promulgation of the constitution. The Constitution states that state power shall be exercised by all three tiers of the government, and the process of operationalizing the constitutional provision got delayed. The Act was formulated based on the principles of coordination, cooperation and coexistence espoused in the Article 232 of the constitution, he said.

Mr. Devkota said the Act has determined the bases of inter-relations, fixed limitations, considered important aspects of policy and law formulation, and incorporated subjects listed in exclusive and concurrent rights. He said the Act clarified the subject committees, and fixed accountability. He said the major challenge was now to deal with the unitary mindset.

Discussions on the Paper by Participants

Following participants gave their opinion on the paper.

■ **Mr. Shiva Chanda Chaudhary, assembly member**

Mr. Chaudhary said law making should be preceded by policy formulation. He also worried about the failure in implementing even the best of policies. He said even ministers are unaware about the policies that have been passed.

■ **Mr. Bechi Lingel, assembly member**

Mr. Lingel said that they were careful while law making because any provincial law that is inconsistent with the federal law becomes null and void. He also pointed at the need to strengthen the implementation of the laws. He said that everyone should respect federalism and should consult with stakeholders before formulating laws or policies.

■ **Dr. Rina Yadav, assembly member**

Dr. Yadav said that although they knew how laws are formulated and have followed the practice, it is sad that they could not address the people's concerns. She said it was necessary to resolve problems faced by the people before delving into law making. She said that this kind of workshop ought to have been held much earlier.

■ **Mr. Upendra Prasad Kushwaha, chief whip, Nepali Congress**

Mr. Kushwaha said that it was unacceptable that they had not been able to formulate laws on coordination between province and local level till now. He said that some provisions on coordination in the Local Government Operation Act need to be re-written. There should be roles for the assembly members in the local level as well, he said, adding that province government should also play the role in coordination with federal and local level.

■ **Ms. Surita Kumari Shah, assembly member**

Ms. Shah said that lack of full-fledged support to the federalism early on had hampered its implementation. She said that federal laws themselves were problematic. She favoured the idea of forming law commission or drafting committee in the provinces. She said ministers should be made more responsible and accountable than secretaries.

■ **Mr. Parshuram Meghi Gurung, chairperson of LMC, National Assembly**

Mr. Gurung said that listening to the assembly members made him realize the need for further discussions on the Coordination Act. He said that the bill had first been drafted by Prime Minister's Office and then the LMC held numerous discussions with experts and stakeholders on the draft before it was updated and passed. The law can always be further updated, he said. Mr. Gurung cited the challenge they faced when considering that within 1 kilometer of distance there could be budgets from 3 governments. There is a need to coordinate on such matter by following the Theory of Subsidiary. In the past, one had to wait for 13 months for a matter to settle but now the provinces can formulate laws on their own on subjects in exclusive list of power. Regarding penalties, he said the provinces, too, can impose administrative penalties.

■ **Mr. Upendra Yadav, former deputy prime minister**

Mr. Yadav said that Nepal has adopted three-tiers of government but its definition of federalism is strange since it also includes local level. He said that normally federalism consists of two tiers only whereas in Nepal provinces have been weakened and local level strengthened. He said that it would have been appropriate if federal laws could reach up to provinces and province laws up to the local level. He also predicted further disputes and conflicts in future given the wide range of rights given to federation.

He said any exclusive right should be treated as such. He also disagreed about the practice of model law saying that no two provinces are alike. He said the situation in local level is much more complicated where a deputy mayor is expected to settle disputes. He said that these challenges can be overcome by making amendments to the constitution.

Paper Presentation

Coordination between Province and Local Level, and Dispute Settlement – Challenges and Opportunities

Paper Presented by:

■ **Mr. Mohan Acharya, advocate**

Mr. Acharya, senior law expert of NLS, said that the bases for coordination and dispute settlement between province and local level have been specified in Articles 57, 58 and Part 20 Article 235 (2) and (3). Based on those provisions and through long discussions and consultation, the NLS and LMC had worked together to prepare a model bill, he said. Mr. Acharya presented the features, importance, objectives and key provisions of the bill.

He first described the constitutional provisions, the preamble of model bill, definitions, subjects of coordination between province and local level, coordination procedures, province subject committees, functions, duties and rights. He also talked about the dispute settlement procedure, time frame, and miscellaneous items.

■ **Mr. Parshuram Meghi Gurung, chairperson of LMC, NA**

Mr. Gurung said that the objective of preparing the document was to help the enforcement of federalism because it means enforcement of constitution. The Articles 235 (2) and (3) provide province assemblies with the right to formulate laws. He said the bill was only to support the province assemblies and had mentioned areas for coordination and envisaged subject committees. He said that the assembly had ample space to discuss and make necessary changes. He said the bill had provisions about identifying and resolving political disputes, subject committees of temporary nature because any permanent committee could mean that disputes are permanent, and was a framework law for all seven provinces.

Remarks from the Chairperson

■ **Mr. Saroj Kumar Yadav, Speaker of Province 2 Assembly**

The speaker said that they realize that the federal level is the head, local level its leg and the provinces the middle-part. He said they have been working accordingly by sending the draft bills to subject committees for discussions. He said that workshops like these will enrich the province assemblies. He thanked the NLS and the province assembly secretariat for organizing the workshop.

Third Session

Democracy, Parliamentary Practices – Role of Province
Assembly in Criminal Law making

Chairperson

Mr. Upendra Yadav, former deputy prime minister

Paper Presentation

■ **Mr. Dipendra Jha, Chief Attorney**

Mr. Jha said that there were some problems in understanding the laws. He said that the coordination law Clause 6 was restrictive. He said there was confusion on the province's jurisdiction on criminal matters and although criminal procedure is under the province, there were meaningless obligations. He said the provinces should have the authority on imposing penalties – both administrative and otherwise. He said provinces were not merely development units. Although law and order is kept at number one in the list of rights for provinces, the fact that only federal government can prosecute does not seem appropriate. He cited the example of Indian penal code where union and state power are differentiated. He said there was a need to have discussions on the provincial jurisdictions.

He also complained that district government attorneys have been kept beyond the internal affairs ministry of the province. He said there were attempts to control even the matters in the exclusive list of rights for provinces.

Presentation and Remarks

■ **Mr. Kalyan Shrestha, former chief justice**

Mr. Shrestha said that major problem was due to the matter of federalism and division of power. He said there were tendencies to interpret in ways that suits one's interests. He said that regarding civil and criminal code, there would be union crimes and state crimes, and, therefore, provinces too require authority in dealing with civil matters. He suggested that there should be clear federal law to end such confusion. He said that if these kinds of tender points in the constitution are not addressed timely they could result in bigger complications down the line. He said constitution is not an unchangeable document and will require necessary revision.

He said that not all mistakes are crimes. States should use force to implement laws. If there are serious errors, then they must be corrected. If there is a dispute and it reaches the court, then the court, too, will look into it. This is the phase of dialogue, he said, urging everyone to be patient. He agreed that exclusive list of rights for federal level is too long. However, these weaknesses will be corrected with the time, he hoped.

Remarks on the Paper by the Participants

Following participants gave their opinion on the paper.

■ **Mr. Parmeshwore Shah, chief whip, province assembly**

Mr. Shah said that since constitution has some errors, it needs to be amended first. He said that any law without provision on penalty and fines will be meaningless. He accused the federal government of attempting to deactivate provinces and local level. He gave the example of case on forest. He said that since many people had agreed to federalism under compulsion, it was not being implemented enthusiastically.

■ **Mr. Ram Ashish Yadav, assembly member**

Mr. Yadav appreciated the organizers for holding the workshop. He said that the federal level was attempting to interfere in matters related to exclusive rights. He said there was tendency to centralize power. He accused it of trying to kill the federalism and constitution. He urged like-minded people to speak against such moves.

■ **Ms. Rani Sharma Tiwari, assembly member**

Ms. Sharma recalled how all the parties agreed to promulgate the constitution except the Madhesi parties despite the apparent weaknesses and problems. Now even mainstream parties realize that this so-called best constitution has many problems. Those who had drafted the constitution have now dissolved the parliament, she said. She said that the federal level was attempting to interfere in matters related to exclusive rights. She said that although they were not elected to carry out development works, people had high expectations. Ms. Tiwari added that due to the nature of work, the deputy mayors needed to be intellectuals.

■ **Mr. Shiva Chandra Chaudhary, assembly member**

Mr. Chaudhary said that only a handful of leaders were dominant when promulgating the constitution. He called for immediate amendment of the constitution to correct the weaknesses. He said that provinces needed authority on imposing fines and penalties.

■ **Ms. Chameli Devi Das, assembly member**

Ms. Das said that the constitution was incomplete. She complained the failure to ensure the rights of Dalit community. She said there should be reservation for Dalit community leaders in mayors/deputy mayors and not merely in ward-level positions. She said that while it was the duty of provinces to plant a sapling, the right to uproot it belonged to the federation. She said that assembly members did not have right even as much as ward chairperson. Provinces have been denied rights, she complained.

■ **Mr. Laxman Lal Karna, member of House of Representatives**

Mr. Karna said that while many parties had celebrated on the day of promulgation of the constitution, there were many who had organized black-out protests. He said demands for amendment of constitution have been denied till now. He said that there is a need for widespread amendment in the constitution and no one should be afraid to revise it. He said that provinces, too, should not be scared because till now none of their laws have been rescinded. He called for more authority to the provinces on matters of criminal cases, penalty imposition and so on. He called for clearer civil procedure to deal with civil cases.

Remarks from the Chairperson

■ **Mr. Upendra Yadav, former deputy prime minister**

Mr. Yadav said that when he was the Law Minister, he had formed a team including experts for the review of the constitution and moved a proposal. But there was lot of resistance and the Prime Minister gave him a long lecture. He said that the prime minister would not listen to calls for amendment even if the constitution itself could be in jeopardy. He also talked about the importance of seeking expert suggestions. On the provincial authority, he said many countries followed the principles of Inter-state and Inner-state jurisdictions. He said it was necessary to manage the quasi-judicial rights given to the local level. He said that there could be more disputes in the future. In Russia, he said each province had the right to frame their own constitution and own flag. He said that while the federalism is a concept of power moving from bottoms-up, in Nepal it was being practiced as top-down process.

Fourth Session

Role of Committee Chairperson and Members in Law making
– Challenges and Opportunities

Chaired by

Mr. Jainul Raya, chairperson, Women, Children and Social
Justice Committee, Province 2 Assembly

Paper presentation

■ **Mr. Parshuram Meghi Gurung, chairperson of LMC, NA**

Mr. Gurung talked about various kinds of parliamentary practices in the world such as unicameral, multi-cameral, and presidential systems. But all of them follow committee systems, he said, adding that in Nepal three kinds of committees were in operation – subject committee, special committee and joint committee. He spoke about the importance of committee and said that whereas a member can only speak for 3 minutes in full house, he/she can talk at length in committees and give their feedback and suggestions. He said that committees try to forge consensus as much as possible so that the passage of bills becomes mere formality in the full house.

He quoted former US president Woodrow Wilson as stating that committees are mini-parliament. He said the committees have two major functions – 1) Legislation, and 2) Monitoring of the policies and actions of the executive. The legislations are of mainly two types – main bill and amendment bill. He said that initially the committees hold discussion in principle followed deliberations on the concept. That is followed by consultations with the stakeholders. He said clause-wise discussions are held and feedback can also be gathered from social media. He suggested minimum use of phrases like ‘as specified’ in the Act so as to limit the delegation of legislative authority. He said punishment and penalty should be specified in the Act itself and not left for rules. He also talked about the importance of the post-legislative phase that focuses on monitoring and evaluation.

Remarks by Participants on the Paper

After the presentation, following participants gave their opinions.

■ **Mr. Shatrughan Mahato, leader of opposition**

Mr. Mahato complained that there was a big problem of non-attendance by the assembly members to the meetings. He said there was a lack of quorum many times. He welcomed the initiative by the organizers to discuss these matters and hoped that members will realize their weakness. He urged the committee members to explore their responsibility themselves. He also said the presence of a minister should be made mandatory in committee meetings.

■ **Mr. Ram Saroj Yadav, leader of Nepali Congress**

Mr Yadav shared his experience how the provincial affairs committee meeting had to be cancelled a dozen times due to lack of quorum. He said he was happy to learn new things from the workshop and hoped everybody will benefit.

■ **Mr. Birendra Prasad Singh, Chairperson, Agriculture and Land Management Committee, Province Assembly**

Mr. Singh said there was a lack of coordination between province government and the committees. The government and ministers are indifferent and that has undermined the morale of committee members, he said. Mr. Singh said once a written question sent to the government went unanswered for three years. Government was also not implementing suggestions, he said.

■ **Mr. Manish Suman, Chairperson, Economic Affairs and Planning Committee**

Mr. Suman said that the government feels that it is better not to have parliament at all. He said it was the duty of the committee to monitor the government during the pre-budget phase. Hence, the committee should be consulted during budget and planning. But in the last two years the province finance ministry did not consult with the committee once, he said. Mr. Suman added that the ministry replied with simply photocopy of red-book when the committee sent its questions.

■ **Mr. Ashok Kumar Yadav, Chairperson, Province Affairs Committee**

Mr. Yadav said that most of them have felt the uselessness of the committees. Most committee meetings lacked quorum and even senior leaders were absent. He complained that less than 50 percent of government commitments were actually fulfilled. He also complained that the staffs failed in forging coordination.

■ **Mr. Shekh Abul Kalam, Chairperson, Development Committee**

Mr. Kalam said that he was worried about the lack of participation in the committee meetings. He said his committee was currently discussing bills on electricity and transport. He urged the organizers to continue this kind of workshop once every three months in order to increase its effectiveness.

■ **Mr. Lalan Lal Chaudhary, member of Public Accounts Committee**

Mr. Chaudhary said that there was no problem of quorum in his committee. He said they had even formed a five-member subcommittee. He said that province government, too, has not had much experience and said that the government was cooperative.

■ **Mr. Laxman Lal Karna, member of House of Representatives**

Mr. Karna said that chief whips have a big role to play. He said that legislatures like province assembly have two important jobs – forming and monitoring government, and engaging in law making. He said that the problem of non-implementation of committee instructions is rampant even in federation. He cited an example where three letters had to be written to the government on a single matter. He said the committees could start informing journalists about their activities and holding discussions on their reports.

He said that giving too much leeway to the executive through delegation of legislative authority is improper. He gave examples of how directives were longer than Acts. Civil service Act is short but the rule is much longer, he said. He advised the lawmakers to include all the important aspects in the Act itself. He suggested the committees to form subcommittees to ease discussions on bills and legislations. He also talked about the role of Speaker and how the Speaker can issue directives.

■ **Mr. Parshuram Meghi Gurung, Chairperson of LMC, NA**

Mr. Gurung said that the Speaker of the province assembly should monitor the policy decisions. He urged the speaker to prepare a guideline to monitor policy decisions. He said that in Britain there are 91 experts working for 10 committees. He informed that the federal level was preparing Act Implementation Assessment Guideline.

■ **Mr. Upendra Yadav, former deputy prime minister of Nepal**

The former deputy prime-minister Mr. Yadav said that he was worried upon hearing that committees faced troubles in reaching quorum to conduct meetings. He said such behavior can jeopardize the success of the parliamentary system itself. He said that it was an irony that representatives elected by the people were not attending the assembly or committee meetings. He said that committees can seek clarifications from ministers and issue instructions to the government. He said the government cannot refuse to abide by parliament's instructions in this system. He added that if committees become active and robust that will make the governments effective. It is the duty of committees to monitor, seek

answers and instruct. He said the members, too, should not be irresponsible regarding their attendance. He said one cannot make others accountable if one is not responsible himself/herself. He said that this alone will lead to balance of power. Otherwise, he said that governments will be pleased to face inactive parliament.

Remarks by the Chairperson

■ **Mr. Jainul Raya, Chairperson, Women, Children and Social Justice Committee**

Speaking from the chair Mr. Raya said that his committee has 11 members and has passed 4 bills till now. It has held 74 meetings. He said that the committee has also held clause-wise discussions on bills. Currently, the committee is discussing a bill on technical education and the Madrassa education board. He said that his committee was also active in monitoring the impact of Covid in the province. He said that the number of hospitals have increased from 7 to 9. The committee monitored their situation and corresponded with the government. He added that the government did not consult with the committee during the formulation of policies and programs. Even so the members were continuing to give suggestions to the government, he said.

He said that the constitution of the country was in a difficult position. He pointed at weak enforcement of laws. At the end, he thanked all the participants and paper presenters.

Program with Province Government:

Effective Service Delivery at Province Level – Federal Perspective

Interaction Workshop Organized by Chief Minister's Office and Nepal Law Society

Bardibas, Mahottari, Province 2 ● January 22, 2021

Opening Session

The NLS and the Province 2 government jointly organized one-day interaction workshop with the ministers and secretaries of the Province 2 government on January 22, 2021 at Hotel Paawan Mithila in Bardibas. Former deputy prime minister Mr. Upendra Yadav, former chief justice Mr. Kalyan Shrestha, Chairperson of LMC Mr. Parshuram Meghi Gurung, CA member Mr. Khim Lal Devkota, Chief Minister Mr. Lal Babu Raut, province ministers, province chief secretary, secretaries and officials, NLS executive director Mr. Krishna Man Pradhan, NLS officials, and CIC Janakpur officials were present in the workshop.

The workshop was chaired by Chief Minister Mr. Lal Babu Raut. The program was divided into two parts – opening session and working sessions. Welcoming the participants NLS Executive Director Mr. Pradhan said that the workshop got delayed due to Covid outbreak. He thanked the former deputy prime minister for taking the initiative in holding the program. He said that similar workshop will also be held with province assembly and judiciary. He urged the participants to openly share their concerns and issues. He said that Swiss Government had stepped in to support the program because of huge challenges and opportunities facing the Province 2. He said that the issue of federalism and its operation would depend on the example set by the Province 2. He expressed concern that with the dissolution of federal House of Representatives, the constitution faces new challenges. He hoped that discussions in the workshop will facilitate effective operation of Province 2 government.

Remarks by Participants

■ Mr. Gokarna Mani Duwadi, Chief Secretary, Province Government

Mr. Duwadi also welcomed the participants. He said the workshop will discuss how the service delivery has changed after the country transformed from unitary to federal state. He talked about the nature of service delivery based on the list of rights mentioned in the schedules of the constitution. He informed that the province government was operating within the limits set by the constitution. He urged participants to discuss and suggest on ways to operate issues that are in concurrent list of rights. He said it was important to work in united and integrated manner rather than become divided. Sharing of experience and expertise will be constructive, he hoped.

■ Mr. Jitendra Sonal, Minister, Physical Infrastructure Development

Mr. Sonal said that the subjects identified for discussions in the workshop were of key importance. He hoped that the province will be able to deliver success in the new set up. He said that the leaders in the political movement in province were themselves leading the province government. He said on the law making front, they faced challenges about content as well as process and drafting. He recalled the first constituent assembly and said that while legislation committee would be busy other committees would lack business. This problem was reformed in the second constituent assembly. He talked about shortcomings in the dealing between province government and assembly committees. He admitted some weakness on the part of ministries as well. He said that a province ministry has a lot of responsibilities

but few human resources. A secretary may be expert on one matter but not all matters, he said. He said bills lacked depth and knowledge. He agreed that once a bill is passed, it must be fully implementable.

■ **Ms. Dimple Kumar Jha, state minister, province government**

Ms. Jha expressed happiness with the initiative by NLS and recalled how it had facilitated law making, and opinion collection. She said that although province governments should have been empowered to deal in all matters except defence, the reality is different. She suggested bringing police service within province and local level. She said that after the transformation of the country from unitary to federal, they were all in formative stage in the last three years. She called it learning by doing process. She said that the federal government should work to improve the coordination between the province government and bureaucrats. She complained that where the province needs 500 staffs the federal government has been deputing just 5. She shared about difficulties in working in such environment.

■ **Mr. Upendra Yadav, former deputy prime minister of Nepal**

Mr. Yadav said that he had felt the need for this kind of experience-sharing workshop when he was the federal law minister. He said that workshop held with province assembly the other day had been fruitful in the sense that it facilitated discussions among province assembly members, committee chairperson and officials, and assembly secretariat officials. He said that while political movements bring about change, they do not deliver service.

He talked about the importance of following due process and procedures while formulating laws. He asked lawmakers to be vigilant about the implementation of the laws. He said that while Province 2 assembly has already passed 42 laws, it should be monitored to what extent they are being implemented. He suggested that the province government should leave no stone unturned in implementing the laws. He said the ministers should always be alert about the laws. Non-implementation of laws will create lack of public trust. He said it was useless to blame the bureaucracy alone for the problems. He said bureaucracy should be properly utilized for the province's betterment. He said that lack of adequate human resources may be one thing but one should also acknowledge the resource-constraint. He said that they will soon be holding interaction with province-level judicial and court officials. He urged the participants to seek maximum benefit by actively taking part in the workshop.

■ **Mr. Lal Babu Raut, Chief Minister of Province 2**

The chief minister said he was glad to be participating in the workshop to discuss the pertinent challenges facing the province. He said that the province government had formulated Acts that were necessary to operationalize federalism, and to compel the federal government to address the problems they were facing. He said that there is a need to work for the institutionalization of rule of law. He admitted that few Acts were not fully implemented due to political and technical problems. He said that police act was not implemented because it was linked with civil service act. He said that the province was looking to pass the provincial civil service act in few days. He said that Province 2 had made these starts without which other provinces would have never formulated such acts. He pointed at problems due to frequent transfers of bureaucrats. He cited the example of how there had been 5 chief secretaries in the last 3 years. He said that not all officials are bad. He said many of them are cooperative and supportive.

He said he had received effective support from province officials on the matter of police act and civil service act. He said that although the constitution does not recognize the position of chief district officer, federal government has been empowering the position. He said he favoured providing integrated service delivery. He counted the achievements made by province government in the areas such as Girl Child Protection, rights, identity, 50 percent reservation for women, Dalit empowerment etc. He said that the province was in the process of formulating media council law. He said that months-long discussions are held on the bills but admitted there might have been weaknesses sometime.

He said that strong federal government is good but it should have the mind set to undermine provinces. He complained that officials usually look up to directions from the federal level. Lack of role of province government in career development means that the officials are largely accountable to the federal level, he said. The chief minister said that ministers do lack knowledge on content, process and drafting of laws. They require support from secretaries. He said failure on the part of the federal government to formulate certain laws has affected the provincial administration. He said that 98 percent of the laws formulated by the province are implemented. At the end he thanked the NLS and Swiss Embassy for holding the workshop that can alert the province government, enhance its capacity and improve good governance.

Presentation of Working Papers and Discussions

Six working papers were presented at the workshop held in collaboration with the Province Government. The first paper on Role of Province Government in Law Making in Federal Structure and its Contribution and Challenges was presented by senior advocate Mr. Khim Lal Devkota. The session was chaired by the chief minister. The second session was chaired by former deputy prime minister in which advocate Mr. Mohan Acharya and MP Mr. Laxman Lal Karna presented a paper on Democracy, Parliamentary Practices: Role of Province Government in Criminal Law Making. The third session was chaired by the chief minister in which LMC chairperson Mr. Parshuram Meghi Gurung presented a paper on Coordination among Federal, Province and Local Level in Law Making: Challenges and Opportunities. In the same session advocate Mr. Acharya presented a paper on Province and Local Level Coordination and Dispute Settlement: Challenges and Opportunities. The fourth session was chaired by Mr. Bijaya Kumar Yadav, Province Minister for Internal Affairs and Law. Mr. Balananda Poudel presented a paper on the Role of Province Government in Fiscal Federalization: Opportunities and Challenges. In the same session, Professor Uma Shankar Prasad presented a paper on Province Government's Budget Planning and Implementation.

First Session

Role of Province Government in Law making Process and Its Contribution and Challenges

Chairperson

Chief Minister Mr. Lal Babu Raut

Paper Presentation

■ Mr. Khim Lal Devkota, senior advocate and CA member

Mr. Devkota explained that federal structure means division of power among different tiers of government. As per Article 56 (6) of the constitution, all levels have right for protection. He said the list of rights of provinces is long and it includes exercise of state power. He said state power also comes from police/security force. He said coordination is the major feature of the constitution and is related with Part 5 and Part 20. He said that the country had adopted democracy and federal system well aware that these systems are costly. He said it was natural to encounter disputes in federal system. He said that in order to settle such disputes there are Inter Province Council and the designated constitutional bench in the Supreme Court. He said that the provinces should no longer wait for the federal government while formulating laws on concurrent list of rights. They should not be too concerned about inconsistency if they engage in coordination and sharing of information. He said the province and the federal level should also coordinate with the local levels.

He pointed a number of challenges such as policy problem, unitary mind set, lack of capacity and resources. He said that the country was experienced in deconstruction but very slow in reconstruction. He said that despite many challenges, the constitution remains the main document. He said that although there was competition among provinces in law making, they were weak in implementation. He said it was wrong to work through directives and guidelines without formulating concerned Act. He said province government operation act should be formulated quickly.

Discussion on the Paper

The following participants gave their remarks on the paper.

■ **Mr. Bijaya Kumar Yadav, Province Minister for Internal Affairs and Law**

Mr. Yadav said that despite the mandate to undertake federalism in the spirit of cooperation, coordination and coexistence, there were many practical challenges. It is not up to a single chief minister or a minister to operationalize the rights of the province. He called for necessary support from the bureaucracy in this regard. He said there were many vacancies in his ministry, and every time they encounter new problems and obstructions. He gave examples of problems such as lack of clarity in operation of banks and financial institutions, insurance companies, vehicle tax etc. He complained that provinces were isolated and lacked revenue sources. He said the country cannot be prosperous without making the provinces and the local level prosperous.

■ **Mr. Ram Naresh Raya, Minister for Industry, Tourism, Forest and Environment Ministry**

Mr. Raya said that the province governments and officials have a big role in formulating laws and delivery of service. He said adequate staffs should be provided for this purpose. He said not all officials were same. He said there were many officials who are of positive attitude and mind set. But positive attitudes are not enough, one should also have adequate resources and manpower. Federal level has not provided enough support. Provinces are unable even to implement rights enshrined in the constitution, he said. Despite all these challenges the Province 2 government has shown the way forward.

■ **Mr. Shailendra Prasad Shah, Minister for Land Management, Agriculture and Cooperatives**

Mr. Shah said that they had earlier understood that the provinces can formulate laws only after the federal level does so with regard to issues related to concurrent rights. But with the paper presentation he now realized that there is no need to wait if the provinces can formulate consistent laws. He said that from now on the provinces can formulate a law and later correct to the extent of inconsistencies.

■ **Mr. Krishna Prasad Kayari, Province Secretary, Ministry of Social Development**

Mr. Kayari said that the provinces lacked adequate staffs. He said it would be appropriate to first formulate Province Government Operation Act. He raised a question what kind of law is needed for hospital development board. He added that the ministry has been actively working to formulate necessary procedures and directives.

■ **Mr. Parshuram Meghi Gurung, Chairperson of LMC**

Mr. Gurung said that he considered Province 2 as the land of ancient sages. He said that act on coordination will address a number of problems related to coordination. He also said that federal law on civil service should have been formulated a lot earlier. He said that content becomes easy once inter-relationship is understood.

Remarks from the Chairperson

■ **Mr. Lal Babu Raut, Chief Minister of Province 2**

Mr. Raut said that they have frequently spoken to the chairperson (prime minister) about holding inter province meeting. He complained that they were forced to knock the doors of the court even on petty issues. He expressed happiness to know that provinces can right away formulate laws on areas listed in concurrent rights by taking some precautions. He also pointed to proposed province government operation act as a useful tool. He said that chief ministers of other provinces too were looking at cases filed by Province 2 in the Supreme Court to find out its decision. He said that the federal government had unitary mind set, which was causing many problems.

Second Session

Democracy, Parliamentary Practices – Role of Province Government on Criminal Law Making

Chairperson

Former deputy prime minister Mr. Upendra Yadav

Working Paper Presentation

Mr. Yadav chaired the second and third session. In the second session Mr Mohan Acharya presented a working paper.

■ **Mr. Mohan Acharya, advocate**

Advocate and senior law expert of NLS described rule of law in democracy and federal structure, three-tier federal system, framework of law, province law making and criminal liability, list of province rights, inter-relationship among federal, province and local level, dispute settlement mechanism, as well as problems and challenges in criminal law. He pointed at a situation whereby after formulating a law under exclusive right, a province may create liability under concurrent right. He also gave examples of problem in forest act and province police law, the existing structure of government attorneys and unitary nature of court, and utility of law without penalty and punishment. He also shared some international experiences on principles, standards and bases of law making.

At the end of presentation, he put forth subjects for discussions such as how the province assembly can create a situation to formulate laws as per the spirit of the constitution. He also urged the participants to discuss how to remove obstacles to allow the province assembly to formulate laws that bring about criminal obligations and which are necessary for socio-economic enhancement. Likewise, he asked how to conduct an educational campaign to discuss the criminal law and the responsibility of federal, province and local level. He also urged participants to discuss whether reforms are necessary in the constitution, criminal code and coordination law.

Discussion on the Paper

Following participants gave their feedback on the paper.

■ **Mr. Jitendra Sonal, Minister for Physical Infrastructure Development**

Mr. Sonal said that the province government did not wish to govern through directives but had no choice. He complained about lack of human resources. He raised concern about how the province should go about making criminal laws. He said the federal parliament should also hold discussion on this matter. He added that governments that are in proximity to the people should become powerful. He,

however, pointed at confusion due to many policies on education by different local levels. He called for empowering province governments, and allowing it to operate province police force.

■ **Mr. Bijaya Kumar Yadav, Minister for Economic Affairs and Planning**

Mr. Yadav said that whereas the Article 207 of the constitution states province finance minister for revenue and expenditure estimates, in practice he is termed as Minister for Economic Planning. He wondered if the designation can be restored as per the constitution. He said that in the past the central government had worked in unitary manner and the local bodies worked for long time in service delivery. But the province government, he said, is a totally new concept. As such, there has been pressure on province government from both sides. He complained that province 2 was blamed for leakage of SEE question paper. He also complained about the situation whereupon he could not spend money in his ministry without receiving a circular from Federal Ministry of Federal Affairs. He said that while local levels have coordinated with the federal level, they have not done so with the province governments.

■ **Mr. Saroj Kumar Singh, State Minister, Internal Affairs and Law Ministry**

Mr. Singh said he has also encountered problems that are similar to the ones expressed by other ministers. He said there had been transfers of four secretaries in his ministry in last three years. He said that one secretary formulates a plan but other has to implement it. He complained that while they get the blame if any untoward incident occurs, the province government is not allowed to control police. He said that though Article 68 of the constitution states about province police force, the authority have been denied. Hence, the province government has filed cases at the court. He said that while the Appropriation Act 2020 states that provinces can spend certain amount from consolidated fund, the Finance Ministry says its approval is also required to draw the money. As such, resources lie unspent, he said. Mr. Singh said that the federal government has failed to carry out its duty, failed to provide adequate human resources and follow the spirit of the constitution. He admitted that the provinces also have some weaknesses regarding law and order, and law implementation.

Third Session

Coordination among Federal, Province and Local Level as per Constitutional Provision

Chairperson

Former deputy prime minister Mr. Upendra Yadav

Working Paper Presentation

In the third session Mr. Parshuram Meghi Gurung presented a working paper.

■ **Mr. Parshuram Meghi Gurung, Chairperson, LMC**

Mr. Gurung said that implementation of constitution is effectively the implementation of federalism. But he pointed at the problem of silence regarding the operation of federalism. He said the Act on Coordination among Federal, Province and Local Level (Inter-relationships and Dispute Settlement) was enacted after two rounds of discussions in provinces. He said that the act has used the definition of coordination as based on cooperation, coexistence and collaboration. He said the Act had just 6 chapters and was basically focused on policy guidance. In the chapter 2 it provided bases for coordination, and issues of fundamental rights enforcement. The chapter 3 has ways of inter-relationship. He said that any law without penalty or punishment may not be effective, but there was need to bring about harmony as per the civil and criminal code. He said that Inter Province Council may provide some solutions to the

existing problems. He said that chapter 6 of the act focused on methods and procedures, contact and direct coordination approaches.

Paper

Coordination between Province and Local Level as per Constitutional Provision

■ **Mr. Mohan Acharya, advocate**

Mr. Acharya described that inter relations and dispute settlement between province and local level were guided by Articles 57, 58 and Part 20 - Articles 235 (2) and (3). He said that after public consultations in all the seven provinces organized by NLS and LMC, they had come up with a model bill. He shared features, significance, constitutional objectives and other contents of the bill.

In course of presentation, he delved into constitutional provisions, preamble of the model bill, explanations and definition, subjects of coordination between provinces and local level, procedures of coordination, role of province assembly committees, their rights and functions, reporting system, dispute settlement, special committees, time for dispute settlement and miscellaneous items.

■ **Mr. Suresh Kumar Shah, State Minister, Land Management, Agriculture and Cooperatives Ministry**

Mr. Shah said as executives, legislatures and judiciaries are operational in all federal, province and local level, he felt appropriate for federal and province level to be engaged in law making and the local level in implementation. Likewise, the constitution itself provides judicial rights to the judicial committees of the local level. But since they have not been provided with resources and capabilities, the committees should be limited to mediation, he suggested. He urged for more resource allocation to local level

■ **Mr. Gokarna Mani Duwadi, chief secretary of Province 2 government**

Mr. Duwadi said that there was still confusion regarding penalty and punishment in the provincial bill. He said without penalty and punishment provision, any law will be toothless. He said it was the duty of the bureaucrats to enforce laws and policies but care should be taken in formulating them. He said adequate numbers of capable officials are needed for this purpose. He also added that there should be motivations for the bureaucrats so that they want to move to provinces. He said there were still shortcomings in the coordination act. He said bureaucrats could not feel motivated in this confusing environment.

■ **Mr. Laxman Lal Karna, MP, House of Representatives**

Mr. Karna said that there was a need to work amid problems and challenges. He said that this federalism was not the one that they had envisaged. However, it was necessary to work with positive attitude. He said there was lack of skilled human resources on law making. He suggested ministries to seek services of experts. He said law commission or law drafting committee can be formed. He said coordination law was supplementary to the constitution. He said it was good that 60 percent of the content of the draft coordination law were amended. He said this Act had allowed the province can formulate law on exclusive list. He complained about the provision related to police administration. He said that provinces had earlier been promised power on police administration but that promise was not kept in the coordination act.

He said that officials deputed by federal government raised unnecessary obstacles and that they should instead facilitate the working of provinces. He talked about matters related to criminal law procedures. He suggested that while formulating law, one should take care that there shall be no need for concerned directives and guidelines.

He said it would be difficult to separate political and legal matters. They are linked and one has to take legal recourse if there are persistent political problems. But he said ultimately the problem needs to be resolved politically.

Remarks by the Chairperson

■ **Mr. Upendra Yadav, former deputy prime minister of Nepal**

Mr. Yadav said that directives should not be frequently used. There has to be Act and rules before there is any directive. He said the constitution has adopted cooperative federalism. One of the best examples of such federalism is Canada, he said. It means two tiers work together. The federal government provides adequate resources to the provinces. But Nepal has not followed it in practice. He said only 9 percent of resources are given to province. He complained that the country was moving towards more restrictive regime. Provinces can make laws and investigate but prosecution has been made a federal obligation, he complained.

He said that past political changes had brought about various changes but could not change Kathmandu-centric approach. That mind set persists. In India, too, province polices look into most criminal cases but such power is not available to provinces here, he said. He said constitution amendment is the only way to bring the change.

He suggested province ministers to regularly visit the province assembly and take part in committee meetings. Ministers should abide by the committee directives and instructions, he said. He also urged ministers to implement the assembly decisions and committee suggestions. Lack of smooth relation between province assembly and government is inappropriate. He also suggested ministers to develop good working relations with officials and state ministers.

Fourth Session

Role of Province Government for the Fiscal Federalization – Opportunities and Challenges

Chairperson

Mr. Bijaya Kumar Yadav,
Minister, Economic Affairs and Planning Ministry

Working Paper Presentation

Two papers were presented in the fourth session. The first paper was presented by Mr. Balananda Poudel and the second paper was presented by Prof. Uma Shankar Prasad.

Paper Presentation

■ **Mr. Balananda Poudel, Chairperson, National Natural Resources and Fiscal Commission**

Mr. Poudel said that as Nepal has 753 local levels, and 7 provinces with government structure divided into three tiers, there were numerous spaces where there are overlaps in terms of rights and functions. It is clear that confusion can affect the governance. Hence, he said that the National Natural Resources and Fiscal Commission has been working by keeping equidistance with all three tiers. He said Nepal's constitution had many unique features including the list of concurrent rights.

He talked about the distribution of expenditure and responsibilities, division of revenue and added that administrative expenditure can be met only through internal revenue or loan. He talked about the importance of fiscal equalization grant. He called for discussions and feedback on ways to address the gaps.

Discussion on the Paper

Following participants gave their opinion on the paper.

■ **Mr. Upendra Yadav, former deputy prime minister of Nepal**

Mr. Yadav said that the explanation by Mr. Poudel on the basis of the constitutional provision and existing laws were appropriate but there was a major problem in regarding provinces as units rather than as partners. The federation is a union of provinces, he said. He said fiscal federalism was the lifeline of federalism. There should be partnership of natural resources, he said, adding that at present if a diamond mine is discovered in a province, the federation would divide its resources. He pointed at China where despite being a unitary country, there are systems for division of power. Federal government cannot be strong by weakening the provinces, he said. He said the federalism has strengthened the United States. The federal government is strong in security, currency and foreign policy and the rest of the matters is left for provinces. He also praised the social security system adopted by Canada. He said Nepal also needs to get rid of centralized mind set. He urged province governments to work in coordination with province assemblies. He called participatory approach in law making and planning.

He reiterated the need to amend the constitution to correct several weaknesses calling for equal justice and equitable justice. He said the stakeholders should pay more attention to helping Karnali Province and Province 2. He added that despite being accessible Province 2 was backward in terms of human development. He said there was a need to find out reason why this province was so backward. He urged all to work together to carry the province forward.

Paper

Budget Planning and Implementation

■ **Professor Mr. Uma Shankar Prasad**

Professor Mr. Prasad talked about the importance of human resources as well as natural resources in the plan formulation. He said Province 2 lacked human resources. He said those involved in political field were not involved in productive works, and the large number of youths and women lacked skills. He said that proper procedures were not being followed in planning formulation. There should be proper guideline for drafting plans. The federal guideline may not be appropriate for provinces. He talked about the need to list important projects in a project bank so that planning will be easy and productive. He said that lack of skilled resources, and lack of participatory approach and consultations have led to poor planning and budgeting in the province. He also expressed disagreement with the formula adopted for division of revenue. He suggested that the federal government should keep 25 percent and share 40 percent with provinces and 35 percent with the local level instead of keeping 90 percent for itself and providing 5 percent each to provinces and local level.

He said that although the volume of expenditure has increased, 67 percent of the spending is limited on maintaining regular expenses whereas only 33 percent is spent on development. He said that planning commission itself is not inclusive. The guideline by the planning commission is used but that results in lot of amount that are unaccounted for.

Discussion by the Participants

Following participants gave their opinion on the paper.

■ **Mr. Kashi Raj Dahal, Secretary, Internal Affairs and Law Ministry, Province Government**

Mr. Dahal said that there should be studies of all three tiers regarding the state of service delivery. He said that the provinces are still in the learning phase. He said that Province 2 had hardly managed to

spend 50 percent of the budget. But if it starts spending, the current budget may not be adequate, he said. Increasing the number of staffs will increase regular expenditure. He suggested clear prioritization in plans and removal of duplications. Provinces have announced projects but their resources will not suffice to implement them, he said. Incomplete projects will hurt public aspirations, he said.

■ **Mr. Lal Babu Raut, chief minister of Province 2**

The chief minister said that the last two days of orientations have been very important. The experiences gained in these discussions will be helpful for all stakeholders. He talked about the bases of prosperity for Province 2. He said that although the province was small in terms of geographical area, it had dense population. The human resource is immense but still the province is backward in terms of human development indicators. He said that the federal government should ponder at the current situation where it sits on 95 percent of budgets and resources. Instead of debating on parameters like population and geography, he suggested focusing on how to provide effective service to the people. Everybody should work within the limits set by the constitution, he said.

The chief minister said that since the provincial structure is new, there is a need to strengthen the provinces. He said that better coordination among the three tiers will result in better outcomes for all. He cited the example of how the province was in the forefront during the management of covid crisis. He said that the province purchased PCR machines for testing in all 8 districts. He urged the National Natural Resources and Fiscal Commission to give priority to province 2.

■ **Mr. Balananda Poudel, Chairperson, National Natural Resources and Fiscal Commission**

Mr. Poudel responded to queries raised by the participants. He said while 70 percent weightage has been given to population, there were concerns of low weightage to the geography of Karnali. He said that division ratio among federal, province and local level is 70/30/30. He talked about differences related to revenue from natural resources such as sand-mining and stone-mining.

Remarks by the Chairperson

■ **Mr. Bijaya Kumar Yadav, Minister, Economic Affairs and Planning Ministry**

Mr. Yadav said that the model of federalism adopted by Nepal is unique in the world. He said that dividing economic matters related to transport, land revenue into three tiers have been fruitless. It is not correct to have 67 percent regular expenditure and 33 percent development expenditure. He said that since this is a transitional period, there may be weaknesses and problems. There is a need to gain experiences on using this constitution, he said. He informed that his ministry has been coordinating with various ministries and officials in budget formulation and implementation.

Interaction Workshop on

Judiciary Service Delivery: Expectations and Role of Province and Local Government

Organized by High Court Janakpur, Chief Attorney's Office and Nepal Law Society

Bardibas, Mahottari, Province 2 ● March 20, 2021

Proceeding Report

1. Background

The Nepal Law Society (NLS) has worked with the Swiss Embassy in Kathmandu to support the law making, capacity building and governance of Province 2 since last one year. The project had three components – supporting the province government, assembly and the judiciary. With the purpose of discussing the parliamentary practice, democratic and inclusive law making, issues of constitutional interpretation and federal norms and the specific roles of the province government and province assembly in these matters, the NLS joined hands with the Province 2 Assembly Secretariat and Province 2 Chief Minister's Office to organize interaction workshop on January 21 and 22 at Hotel Paawan Mithila in Bardibas.

The third component of the project related to the Judicial Service Delivery and the Expectations/Roles of the Province and Local Government has also been recently completed. The interaction with the judges of the High Court of Janakpur, Birgunj and Rajbiraj as well as judges of District Courts of Dhanusha, Mahottari, Sarlahi, Siraha, Bara, Parsa, Rautahat and Saptari were present in the interaction, which was held on March 20, 2021 at Hotel Paawan Mithila in Bardibas, Mahottari.

2. Objectives

- To discuss the contribution and challenges of province-level judiciary by bringing together judges of High Court, judges of District Courts, and registrars of Province 2
- To facilitate dialogue between judges/judicial officials and province government officials of Province 2 for effective judicial service delivery
- To facilitate dialogue between judges/judicial officials and province government officials of Province 2 on ensuring effective implementation of laws formulated by province and local level
- To facilitate dialogue on the role of judiciary in implementing federalism and in increasing public trust in judiciary
- To review the concept of local level justice, as well as structure and performance of judicial committees to formulate future strategy for effective service delivery
- To review the status of access to justice for citizens of Province 2 and to formulate future strategy for its promotion

3. Key Achievements

- Around 65 participants including High Court and District Court judges of Province 2 present at one place for the first time

- Dialogue between province-level judicial officials/judges and Province 2 Chief Minister and Ministers held for the first time
- Uniformity in understanding reached among the judges regarding the implementation of the laws formulated by the province and the local level, and positive opinion formed among the judicial officials
- Commitment by the Province government to support the judiciary in increasing public trust by providing resources as well as programs
- Court and government agreed to work together to support local level judicial committees
- Understanding reached to set up a model Province-level Judiciary Service Training Center
- Understanding reached to hold quarterly dialogue programs between court and the government

4. Target Groups

High Court Chief Judge, Judges, Registrar, District Court Judges and Court Officials, Chief Ministers, Minister, Chief Attorney,

5. Key Challenges

- Outbreak of Covid-19 delayed the program, which was otherwise slated to be held last year
- Judges are not very open to participate in programs with political leaders and the government leaders
- Although the program wished to cover all the district courts, some of the judges faced challenge in travelling long distance to the program venue in the absence of logistics/travel management from the project side
- With the involvement of senior leaders, chief minister, ministers, Supreme Court judge, High Court and District Court judges it was challenging to manage time convenient for all
- Huge pressure to complete workshop with sessions on four topics in a single day
- Since the workshop could cater to only 50-60 judges/judicial officials, many could not attend

6. Key Lessons Learned

- Presence of Supreme Court justice and former chief justice helped in attracting large number of judges from the province
- Presence of Chief Minister and ministers helped in attracting the participation by senior judges for full-time
- Bearing travel and lodging cost helped in ensuring meaningful participation
- Modality of participatory discussion helped in constructive dialogue
- Selection of discussion issues through previous planning meeting helped in increasing the interest of the stakeholders
- Selection of centralized location as venue was also helpful
- Presence of Supreme Court justice and chief minister helped the judges to realize that the dialogue and feedbacks will be constructively useful in policy and service delivery

7. Brief Proceedings of Programs

7.1. Opening Session

The one-day workshop organized by the NLS, High Court Janakpur and Chief Attorney's Office, Janakpur was chaired by Mr. Prakash Chandra Gajurel, Chief Judge of High Court, Janakpur. Mr. Krishna Man Pradhan, Executive Director of NLS, welcomed the participants including the Judges, Chief Minister, court officials, chief attorney and other distinguished guests. He shed light on the objectives of the program.

He said that the NLS has been working with the Swiss Embassy in Nepal to support the government, assembly and judiciary of Province 2 as a full package on capacity building and service delivery. He said that this project involved close collaboration with all three organs at the province level. He said that the purpose of the project was to help not only in law making and its implementation but also capacity building, and coordination by facilitating dialogues among stakeholders. As the third component of the project, he said, that the interaction program was being held by inviting all senior judges of the province so that there could be meaningful dialogue with the province government leaders. It will help in reaching uniformity of understanding on the interpretation of various laws and also forge close coordination between them, he said. Mr. Pradhan said that after completing these programs, the project will explore working with the local level on law making, law implementation and judicial services.



Remarks from the Guest Participants

■ Mr. Dipendra Jha, Chief Attorney, Province 2

Mr. Jha said he has been involved in the program since the planning phase. He said that the program was designed on their demands and through consultations among province government, assembly and judiciary. He said that the earlier interactions with province government and assembly had been very successful. In the third component related to judiciary, he said, the Chief Attorney's Office itself

joined as a joint organizer. He thanked the Swiss Embassy for its support. He said that the program will be participated by

high court/district court judges

as well as chief minister. He urged

all the participants to present their opinions

clearly and openly.

■ Ms. Saranga Subedi, Chief Judge, High Court - Birgunj

Ms. Subedi said that she has participated in this kind of dialogue for the first time. She shared about her experience as judge in Parsa district and found that the challenges of judiciary in Province 2 was a bit different from elsewhere. She pointed at lack of



access to justice as well as inability among the citizen to reach the doors of the court as major challenges of Province 2. She also added that most disputes that reached the courts were related to crime or ego problem. She said that lack of education and rampant poverty were reasons for these kinds of challenges. She hoped that closer cooperation between province government and judiciary can help alleviate these challenges. She also hoped that this interaction dialogue will be successful in that direction.

■ **Mr. Dilli Acharya, chief judge, High Court - Rajbiraj**



Mr. Acharya said that he has been continuously involved in NLS programs as its member since last 20 years. He said he was pleased to be a part of this program, as well. He said he had worked for two years in Birgunj and one year in Rajbiraj. He said there were some differences in challenges faced by judiciary in this province. He said he was pleased to see the interest by the chief minister himself regarding the concerns of judiciary. He thanked the chief minister. He said that 18 percent of all cases in Nepal were in Province 2 alone. Due to various reasons, he said that judges were not interested to get transferred to province 2 because of lack of career development incentives. He urged the province 2 government to lobby to increase incentives (for promotion) for judges who come here. He also pointed at huge challenge of convincing people to make use of judicial services. He said that while province government is not too positive about the province

judiciary, they expect high level of service delivery. He urged to end such mismatch.

■ **Mr. Gyanendra Kumar Yadav, Minister for Internal Affairs and Law**

Mr. Yadav said he was thankful to the NLS and Swiss Embassy for holding the program as per their demand. He said he was pleased with the earlier programs with the province government and assembly, too. The minister said the program with the high level of participation by judges was a big opportunity to increase collaboration and understanding in the coming days. He said that the province 2 government wished to forge exemplary coordination with the judiciary by mobilizing the chief attorney's office. He hoped this will help the service-recipients. Regarding the matter of implementation of court decisions, he expressed commitment on behalf of the province government. He also talked about various challenges faced by the judicial committees, and said the province government was willing to help them. He said that the province government will despatch law officer to all judicial committees. He urged the courts to conduct monitoring of judicial committees and share their findings so that the province government can address the concerns.



■ **Mr. Md. Lal Babu Raut, Chief Minister of Province 2**

The chief minister thanked all the participants and the organizers. He said he was pleased with the project programs that are demand-driven. He thanked NLS for working with Swiss Embassy to conduct specific programs in Province 2. He said he was already witnessing positive changes from the earlier two programs. He said that following the orientation on bill making process, he had already witnessed improvements including holding of public consultations. Likewise, after the program with the province assembly, the earlier problem of lack of quorum has largely ended and the coordination between government and assembly, too, has increased. Furthermore, he said that province bureaucracy was gradually becoming accountable to the province government after the orientation. He hoped



similar results from this program as well. He said that he will take the opportunity of the presence of Supreme Court justice, who is also a member of constitutional bench, to draw attention to over one dozen cases filed by the province 2 government regarding the operationalization of federalism. He said that delays and lingering in the case settlement was hurting all stakeholders. He hoped that the cases will be expedited. The chief minister added that the program also provided opportunity to the province government to tell the courts about the mission of their new laws so that they can be effectively implemented. He expressed commitment to coordinate and cooperate with the courts on behalf of the province government.

■ **Mr. Upendra Yadav, former deputy prime minister**

Mr. Yadav also started his remarks by thanking the organizers. He recalled how he had talked with the NLS and Swiss Embassy about programs necessary in Province 2. He said he had participated full time in the previous two interactions and would do so in this program as well. He said that this program was designed because they were convinced that issues of Province 2 can be resolved only through cooperation, coordination and collaboration among three organs. He said that Province 2 is different geographically, developmentally and politically. He said that province 2 government formulates a certain bill and faces problem, which comes to his doorstep. Likewise, province 2 assembly passes certain bill and faces problem, which comes to his doorstep. And there is some problem in justice delivery, which again comes to his doorstep. Mr. Yadav said that due to all these hassles, he became convinced about the need to improve coordination and collaboration. Hence, he had talked with the organizers about the need to hold facilitation dialogues. Regarding the interaction program with judiciary, he urged the judges to present their opinions and give their feedback. He hoped that province 2 government will address their concerns where necessary. He said that he has heard about lack of adequate resources, and problem in access to justice. He urged the province government to take steps to address those concerns. He urged the judges to look into the rationale behind the province laws and help in their implementation.



■ **Ms. Pratigya Simkhada, Governance Advisor, Swiss Embassy in Nepal**

Ms. Simkhada said that the Swiss Embassy had worked with the NLS to help the province 2 by holding three programs. She said that they could not participate in earlier two programs due to covid concerns. She said that developments in province 2 was important for entire Nepal in terms of operationalization of federalism. She said that Swiss government is interested to support the implementation of constitution in Nepal. Rather than sharing Swiss experience, it is important to discuss the distinct problems by taking Swiss experience only as reference, she said. Ms. Simkhada said that these programs will help in the implementation of federalism as per the constitutional provisions. The role of judiciary is important in maintaining rule of law and, hence, Swiss government is ready to provide necessary support in this regard.



She hoped that given the high level participation, the program will provide useful inputs. She thanked the participants as well as the province government, judiciary, assembly and NLS for their support.

■ **Remarks from Chairperson Mr. Prakash Chandra Gajurel, Chief Judge, High Court Janakpur**

Mr. Gajurel appreciated the constructive opinions and feedbacks by all the speakers including judges and chief minister. He said that their remarks had provided a lot of inputs to improve coordination and collaboration between province government/assembly and judiciary. He said he supported the



viewpoints by judges regarding the opportunities and challenges of province-level judiciary. He said that there are two-pronged challenges they have faced – one regarding the application of due process in justice administration, and two regarding the implementation of court decisions. He called for support from the province government in the implementation of decisions. He urged the chief minister and law minister to take steps to increase career development incentives for judges who come to province 2 so that there will be interest among the judges to come and work here. He also asked the province government to talk with Supreme Court to fill the vacancies as per the

positions available. He said there could be immediate relief by adopting staff recruitment on contract basis. He thanked the province government for some exemplary support moves such as building of court houses. He asked for further support in building residences for judges and training center. Likewise, he called for awareness-raising programs and quarterly dialogue.

7.2. First Working Session

Subject

Review of the Status of Law Making in the Province and the Role of Judiciary in their Implementation

■ **Chair- Mr. Kalyan Shrestha, former chief justice**

The first session was chaired by former chief justice Mr. Kalyan Shrestha. In the first session, Chief Attorney Mr. Dipendra Jha and member of parliament Mr. Laxman Lal Karna gave their presentations on the subject 'Review of the Status of Law Making in the Province and the Role of Judiciary in their Implementation.

■ **Paper presentation- Chief Attorney Mr. Dipendra Jha and member of parliament Mr. Laxman Lal Karna**

The presenters highlighted the number, issues and contents of the laws made by Province 2 Assembly as well as the status of their implementation and challenges. They also spoke about the role of judiciary in the implementation of the provincial laws. They updated about the cases filed in the court against some province laws. They said that there were around 50 such cases in the court including cases related to forest management, personnel management, police, coordination among three tiers, physical





infrastructure development, covid management etc. They also talked about the steps taken by the province government in coordinating with the judiciary such as in the field of development of physical infrastructure and service delivery. The presenters also underscored about various challenges that have surfaced in the relationship between the province government and the judiciary. They listed some challenges such as delay in the hearing by the constitutional bench on cases they had filed claiming that federal laws had interfered with provincial jurisdictions; lack of consultation with province government while appointing judges at the province High Court; lack of personnel and high volume of case load in province High Courts and District Courts leading to delay in justice dispensation; and the need to expand Judicial Council to provinces to increase provincial stake and ownership. They also urged the participants to discuss how to work productively in a situation where the judiciary

is unitary in nature while executive/legislatures are federal. They also talked about the challenges faced by judiciary in helping implement laws made by federal, province and local level. They said that by asking provinces not to include provisions for penalty/punishment in their laws, the provinces have become handicapped and their laws could not be implemented. They said that till now province 2 has formulated 39 different laws that could not be implemented due to such conditions. They also pointed at lack of coordination between provinces and the local level. As a result, the provinces are unaware about various laws formulated by local level.

Remarks from the Participants

Various participants including Ramesh Rijal; judge, Mr. Dipendra Adhikari, Mr. Brajesh Pyakurel, Ms. Shanta Sedhai, Mr. Hari Bagale, Mr. Dwarika Man Joshi, Ms. Saranga Subedi and Ms. Prabha Basnet spoke at the program.

They said that while judges have to deal with cases they are not aware about various laws being formulated by the province and the local level. Hence, they pointed at the need to have a system to keep record of such laws in the court. They also pointed out challenges posed due to difference in legal provisions and social culture and gave example of marital age. They said that while the federal law stipulates that adults can marry only after the age of 20 years, the social culture prevalent in Province 2 calls for marriage well before they reach 20 years of age. This has resulted in various complications and marriages could not be registered. They called for establishment of Provincial Judicial Training Academy so as to train judges who come to the Province 2 on specific issues relevant to this province. They said that the province government should provide the service of interpreters in all courts since many people in the province speak local languages that are not understood by the judges.



Remarks from the Chairperson

Former Chief Justice Mr. Kalyan Shrestha appreciated the paper presenters and the respondents. He said it was necessary to have smooth coordination between province government/assembly and

judiciary. He urged leaders from all sides to take initiatives in this regard. He asked the chief minister specifically to address some of the concerns raised by the participants. He supported the demands for setting up province level Judicial Training Academy. He also asked the province Law Ministry to set up a system to record the laws formulated by province assembly and the local level so that judges, too, can benefit. About the specific example cited by the judges related to marital age, he urged the province leaders and ministers to lobby, if necessary, to insert exceptions for the province to facilitate marriages of certain age in the federal law. He also called for formulation of law related to provincial judicial service commission to facilitate judicial appointments in the province.

7.3. Second Working Session

Subject

Role of Judiciary in the Implementation of Federalism: Challenges in Increasing Public Trust

■ Chair- Mr. Upendra Yadav, former deputy prime minister

The second session was chaired by former deputy prime minister Mr. Upendra Yadav. In the second session, Supreme Court Justice Mr. Prakash Raut gave a presentation on the subject 'Role of Judiciary in the Implementation of Federalism: Challenges in Increasing Public Trust.'

■ Paper presentation: Justice Mr. Prakash Raut, Supreme Court

Justice Mr. Raut explained about the good governance and judiciary. He talked about the indicators of good governance including rule of law, coordination and transparency. He also spoke about the judicial accountability and public trust. In the paper he argued that judiciary is no exception when questions were being raised about all sectors of the state. Mr. Raut said that the judiciary has been trying its best to deliver service as per the constitution and the law. He said that the Supreme Court, High Courts and District Courts have been working as per the new constitution and in the new structure since 2015. He said that due process of law has to be applied when delivering justice, which may sometimes take a long time. He also pointed at lack of resources in judiciary. He listed many challenges faced by judiciary such as the allegations of the political affiliation and reflection on judgments; lack of transparency in the appointment process; qualifications are not perfectly scrutinized and merits are undermined; inclusion is undermined; cadre based knowledge and experiences are not given due consideration at the behest of political influence in the appointment process of the judicial council; Constitutional Council's recommendation process itself is not without problem, and often suffer criticisms by the parliamentary hearing committee; Parliamentary hearing is seen as partisan; performance audit of the judges as well as the lawyers are not ascertained; and professional mal practices, judicial misconduct and corrupt practices are not seriously overseen. He also listed other challenges such as lack of examination of property statements of the judges and officials; appointments, postings and transfers are not based on objective evaluation of the performances; cause list management, assignment of cases to the judges, hearing of cases management, court room management, case flow management, delay control strategies, control of deferral of cases, adjournment of hearing and time management. He cited other problems such as timely issuance of orders and judgments, recusal in case of conflict of interests of judges expeditious serving of court processes, maximization of the judicial time to be spent by the judges in courts, capacity building of judges and officers, monitoring of compliance with ethical and



disciplinary standards, and facilitation services for the indigent or marginalized communities. In the paper, justice Mr. Raut also underscored the importance of adhering to the code of judicial conduct as declared by the judges conferences. He pointed at the need to ensure equal and fair treatment to all parties to the litigation; recusal from and maintenance of distances with interested persons; and accountability. He added that it is not only necessary to provide justice but also be seen as providing justice.

Remarks from the Participants

Various judges including Mr. Dilli Raj Acharya, Mr. Thagendra Kattel, Mr. Durga Prasad Dhungel, and Mr. Ramesh Dhakal responded to the paper presentation.

They said that they would benefit by the establishment of province judicial service commission. They pointed at the need to strengthen Justice Sector Coordination Committee. They called for annual



review of decisions made by High Courts and District Courts as well as decisions made by Judicial Committees of the local level. They said that due to long process, lack of access and lack of transparency, public trust has suffered. They suggested addressing those issues in order to increase public trust in judiciary. They said that while they have heard that province assembly has passed 39 laws, they have not been able to look at them. They said that free legal aid as prescribed by law has not been implemented in practice. They said that while federalism was introduced in order to bring service delivery closer to the public, in practice there has been no change. They pointed at

provision for Local Court in Schedule 9 of the constitution but no one has been interested to form them.

Remarks by former chief justice Mr. Kalyan Shrestha

Mr. Shrestha said that while constitution, laws and courts are democratic and independent in paper, there are questions about them in practice. The appointment of judges, judicial governance and procedures have led to many questioning the judiciary. He suggested addressing those concerns to build public trust. He said that once appointed as a judge, the person should cease all kinds of political affiliations. He called for improvement in appointment process to ensure inclusion and transparency. Not only the judges but also the judicial council that appoints them should be transparent. About concerns raised about language and personnel management, he urged the Supreme Court justice to raise them at appropriate level to resolve them. He asked the chief minister to look into concerns about the implementation of court decisions.

Remarks from the Chair

Former deputy prime minister Mr. Upendra Yadav expressed happiness about the nature and depth of discussions between judges and the province government leaders. He said that there is a need to have patience for building system and provide service as per people's expectations. He said that there has been some improvement gradually. He said that during constitution making process, they had tried to have judiciary too federalized but were not successful. Therefore, in the coming days he hoped constitutional bench will address such concerns in timely manner so as to make the constitution successful. He asked the chief minister and chief judge present at the program to take initiatives from their sides to address

concerns raised at the program.

Subject

Concept of Local Justice, Evaluation of Function and Efficiency of Judicial Committees and their Challenges

7.4. Third Working Session

■ **Chair- Mr. Kalyan Shrestha, former chief justice**

The third session was chaired by former chief justice Mr. Kalyan Shrestha. In the third session, district court judges Mr. Brajesh Pyakurel and Mr. Ramesh Prasad Rijal gave a presentation on the subject 'Concept of Local Justice, Evaluation of Function and Efficiency of Judicial Committees and their Challenges.'

■ **Paper presentation: District court judges Mr. Brajesh Pyakurel and Dr. Ramesh Prasad Rijal**

The judges gave presentation on the subject by explaining the concept and understanding of local justice including the status of local judicial bodies in Nepal. They talked about it in terms of

Judicial Five Year Strategy. The paper also

highlighted the judicial structure in Nepal and the Local judicial

structure and functions as per Local Governance

Operation Act (LGOA). They

highlighted the Clause 47 (1)

and (2) of LGOA that details

the nature of cases heard by judicial

committees. They talked about the issues and challenges

faced by judicial committees. They also shared the findings by

court monitoring of the judicial committees. They argued that

there needs to be certain changes in order to make the judicial

committees effective including the dissemination of its need,

importance and role among the general public; improving public trust

in them; fulfilment of judicial and capable functionaries; integrated law

on procedure; periodic orientation for judicial committee functionaries

on procedures;

bench management; and adequate physical infrastructure.

Remarks from the Participants

Various participants including Mr. Durga Prasad Dhungel, Mr. Ramesh Pokharel, Mr. Basudev Acharya, Mr. Dilli Acharya, Mr. Shekhar Poudel, Mr. Dharma Raj Poudel, and Mr. Dipendra Jha gave their responses.

They shared what they saw during the monitoring of the judicial committees such as lack of due process in the case settlement; settlement of cases



that are beyond their jurisdictions; domination by mayor and ward chairperson in case settlement; and challenges in case settlement plus decision implementation. They pointed at confusion about judicial committees and proposed local court. They said that public trust in judicial committees is low. They said that dispute between mayor and deputy mayor has made judicial committees dysfunctional in many places. Lack of due process and record management has also resulted in overturning of their decisions by the courts, they said.

Remarks from the Chairperson

Mr. Shrestha said that many strong points have been raised during the program. He urged the chief judge and chief minister to take them into consideration so that the issue of adherence to due process is fully taken care of and people will get justice at their doorsteps. He said it is necessary to keep in mind that males may have vested interest to make judicial committees – 90 percent of which are led by females – dysfunctional. So, he added that all should contribute to make them successful. He urged all stakeholders to create environment conducive for the judicial committees to play their constitutional role. He said that the province government and judiciary have obtained the opportunity to understand each other's views and concerns.

Issues

Access to Justice: Challenges and Opportunities

7.5. Fourth Working Session

■ Chair: Mr. Mohammad Lal Babu Raut, Chief minister

The fourth session was chaired by chief minister Mr. Mohammad Lal Babu Raut. In the fourth session, former Chief Justice Mr. Kalyan Shrestha and senior advocate Mr. Khim Lal Devkota gave a presentation on the subject 'Access to Justice: Challenges and Opportunities.'

■ Paper presentation: Mr. Kalyan Shrestha, former Chief Justice and Mr. Khimlal Devkota, Senior Advocate

The paper presenters explained that justice as a value- enlivening human potentials, illumination of people both as individual and collectivities. They said that objective of access to justice is to ensure and secure justice. They talked about determinants of the access to justice and the need to have deeper understanding of the justice aspects of Constitution of Nepal and creation of Justice oriented Institutions. They argued in favor of creation of support system for vulnerable group in raising awareness, supporting them in securing justice. They pointed at challenges such as poverty, illiteracy, marginalization and economic stratification and exclusions as well as social stigmatization for taking recourse to justice. They pointed at the need to have record keeping system, and raising awareness of the formal court process, assistance mechanism. They also talked about the rights to justice- and fair trial declared as fundamental rights, rights of the victims (for participation and compensation) declared as fundamental rights and the Strategy Plan of the Judiciary to improve court management and laws. They pointed at the need for capacity building of judges and court employees through NJA and to have the law on Legal Aid. They also talked about the importance of the laws on criminalizing untouchability and law on domestic violence. On the way forward, they argued about Access to Justice Commission to be constituted at the SC; auditing the overall system of justice from the access to justice point of view; enhancing legal literacy and simplification/familiarization with the court process and counselling services; creating access to justice commissioners to oversee and improve the situation; effective mechanism for realizing compensation and cost of the case including cost of lawyers and delayed execution, and wrongful claims; mainstreaming of restorative justice components in the justice system;

prison reform including introduction of alternative sentencing methods; making pro-bono service available in the nook and corners of the country; effective outreach program; completing the justice cycle with emphasis on rehabilitation, social reintegration and healing mechanism; and addressing conflict era cases through TRC and Criminal justice system.

Remarks from the Participants

Participants including Mr. Dipendra Adhikari, Mr. Dilli Raj Acharya, Ms. Kiran Kumari Gupta, Mr. Ramesh Rijal, Mr. Kumar Maskey, Mr. Dipendra Jha, Mr. Rabi Sharma Aryal, Mr. Upendra Yadav, and Mr. Basudev Acharya made their remarks.

They said that vulnerable citizens of province 2 have lacked access to justice. Most cases have been brought forward on the basis of provocation by others, they said. They added that vulnerable citizens refrain from approaching court due to high cost. The legal aid is only in name. They also called for attitude change among court officials to facilitate the service recipients. They also called for massive public awareness. Mediators should be appointed in wards. There should be guarantee of speedy justice.



■ Remarks from the Chair

Chief Minister Mr. Raut said he took part full time in all three programs. He said he was pleased with the result from earlier two programs with province government and province assembly. He added that this program with province judiciary will also have similarly positive impact. In this program he said the judges were able to understand the laws formulated by the province and their objectives. He said that they will provide all the 39 laws they have formulated to the High Court and District Courts. In the second session, he said they could discuss about the values and norms of federal system and judges of all levels of courts could understand them. He hoped that in coming days, courts will support them in addressing the concerns that have been raised. He said that interpretation of laws by the courts have not been as per their expectations till now. In the third session, he said that the judicial committees were discussed in detail. It is now necessary to work together to strengthen them as per the constitution and the law. In the final session, he said that there were problems related to law as well as resources. The province government will work from its side to address all the issues that have been raised. He hoped to have quarterly dialogue with judges in the coming days. As the chief minister of Province 2, he thanked the NLS and Swiss Embassy for holding the first round of programs successfully. He hoped similar support in the days to come. He thanked the judges from the Supreme Court, High Court, District Court, court officials, former chief justice and various experts for their presence.

Nepal Law Society/Embassy of Switzerland in Nepal Interaction/workshop on

Support to Good Governance, Law Making and Justice Delivery in Province -2

Proceeding of Review Meeting

Hotel Summit ● 12 February, 2021

1. Background

Since last one year the Nepal Law Society and the Embassy of Switzerland in Nepal have been working together to support the Province Number Two in carrying out effective governance and rule of law. During this period, we held planning meetings, orientations for the government officials, and orientations for the province assembly members. We are also holding the orientation for judicial officials in March.

In order to review those activities and to decide on the future course, we held a review meeting on February 12, 2021. The meeting was participated by the members of the Steering Committee including Chief Minister of Province 2, Speaker of Province 2 Assembly, former Deputy Prime Minister, former Chief Justice, Chief Attorney of Province 2, NLS Executive Director and Embassy representative.

The Steering Committee is responsible for identifying the needs/programs, review the completed activities, monitor and guide the future activities. In this course this meeting was organized. Below is the minute of the meeting.

2. Agenda

- To review the completed activities;
- To plan the remaining programs of ongoing phase;
- To identify issues for future program.

3. Participants of the Meeting

●	Mr. Kalyan Shrestha - Former Chief Justice, Supreme Court of Nepal
●	Mr. Upendra Yadav, Former Deputy Prime Minister
●	Mr. Mohammad Lalbabu Raut, Chief Minister, Province-2
●	Mr. Saroj Yadav, Speaker, Province-2
●	Mr. Tirtha man Shakya - Chairperson, Nepal Law Society
●	Mr. Dipendra Jha Chief Attorney, Province-2
●	Mr. Khim Lal Devkota, Executive Member, NLS
●	Mr. Krishna Man Pradhan Executive Director, NLS
●	Mr. Ganesh Man Pradhan Senior Admin and Program officer, NLS

4. Proceeding of the Review Meeting



The meeting was chaired by NLS chairperson Mr. Tirtha Man Shakya. Executive Director of NLS Mr. Krishna Man Pradhan gave overview of the completed programs. He said that in the last one year they held a series of planning meetings in Kathmandu as well as in Janakpur. Based on the planning with the stakeholders, the project carried out two orientation programs, he said. Due to Covid situation, the programs were delayed. The first orientation was held on January 21,

2021 with members of Province 2 Assembly. There were four working sessions in the orientation – on Law Making Process; Coordination; Democracy and Parliament System; and Parliament Committee system. He said that senior experts had been mobilized for the orientation. There were 60 participants, he said. Likewise, Mr. Pradhan said that the second orientation was held on January 22, 2021 with the senior officials of the Province 2 government including Chief Minister, Ministers, and senior officials. There were 40 participants. He said that this orientation, too, had four sessions – on Law Making Process; Democracy and Parliament System; Coordination between Government and Province Assembly; and Budget and Planning. Senior experts were mobilized for the orientation, he said. Mr. Pradhan said that orientation for the judicial officials will be held in March. In March, all the agreed activities will be completed, he said, adding that the NLS has already submitted brief proposal regarding the extension of the project beyond March.

Mr. Pradhan briefly informed about the contents of the proposal. He said that it includes holding programs on Policy Dialogue for the Institutional of Federalism; Capacity Building of Provincial Government, Assembly and Judiciary; and Capacity Building of Local Government. He asked the meeting to further discuss these matters.

5. Remarks / Feedbacks from the Participants

■ Mr. Khim Lal Devkota, NLS

Mr. Devkota said that he had been involved in both orientation programs. He said they were effective and he feels they have helped the province government and assembly to make their work effective. So far as future programs are concerned, he said that they were identified through the demands of the province stakeholders and discussion among experts. These programs will help in institutionalizing the constitution and federalism, he said.

■ Mr. Dipendra Jha, Chief Attorney of Province 2

Mr. Jha said that in the NLS programs held in Province 2, he himself and senior leaders were involved in the planning. Hence, there is wide ownership on these support programs, he said. Mr. Jha expressed satisfaction at the selection of proper subjects and experts. He added that subsequent to the orientation, he found positive feedback from ministers and senior bureaucrats. He called for regular holding of such programs to make the benefits sustainable. He said he was surprised that participants were present whole time



of the orientation and were really interactive. He said the presence of former DPM, chief minister and Speakers might have prompted such positive reaction. About the future program, he said that in the second round it will be important to provide orientation to the local government and other remaining stakeholders of the government/assembly. He also urged for research in the state of federalism particularly in Province 2 so that it can help all to go forward. He advised holding a conference of mayors.

■ **Mr. Saroj Yadav, Speaker of Province 2 Assembly**

Mr. Yadav said it was the first time he had worked with the NLS. He said he was involved in the planning phase. The programs were effective because they were demand-driven. In the last few weeks since orientation, he said he has seen visible impacts. He said that enough members as well as ministers are now participating in committee meetings. Drafting has also become simpler due to better understanding on law making process and content. He advised holding similar orientation every three months. He also advised holding such orientation for local level.



■ **Mr. Lal Babu Raut, Chief Minister of Province 2**

The chief minister thanked the NLS and the Swiss Embassy for holding effective program. He said the programs were effective because they were involved in planning and organizing of the orientations. He said he had participated full time in both orientation programs. He appreciated the content and the resource person. Impact of orientation, too, has been visible, he said, adding there is better coordination, trust and spirit of cooperation between ministers and secretaries. Participation of ministers has also increased in cabinet meetings, he said. Bill making has also become easy, he said. Likewise, orientation for assembly members helped ministers to increase their participation in committee meetings, he said. The chief minister said that this program has been uniquely effective. He thanked the former DPM and former Chief Justice for their active participation that helped in making the programs effective. He advised holding similar programs once every three months. The chief minister said he agrees with the proposed programs for the future project and gave his support to extend programs to local level. It can help in attaining uniform understanding among all stakeholders regarding federalism, he said, adding that it can also become a model for other provinces. He suggested legislative training and empowerment for local government officials and judicial function training for judicial committee officials.



■ **Mr. Upendra Yadav, former Deputy Prime Minister of Nepal**

Mr. Yadav said that normally senior political figures do not take part in NGO activities. However, he was happy to be a part of this initiative by NLS and the Embassy of Switzerland. He said that NLS expertise has helped in making the program effective as well as exemplary for other provinces. All stakeholders were comfortable because of political neutrality and professionalism, he said. Mr. Yadav requested



the NLS and the Embassy to give continuity to these programs. He advised them to focus on local level also. He said he will lend support to such programs in future as well. He also urged for designing programs for helping the system development, accountability and governance in provinces.

■ **Mr. Kalyan Shrestha, former Chief Justice of Nepal**

Mr. Shrestha said that this was a different program compared to regular activities by NLS. He pointed at the involvement of chiefs of executive, and legislative branch of province government. This was one of the key reasons for its success, he said. Mr. Shrestha said that everyone is aware about the role of Province 2 in federalism. He said that currently the country was facing a constitutional crisis and it can also endanger federalism in future.

Hence, he urged for proper research and need-based programs to support the implementation of federalism. Such programs need to be mission-driven not only event-driven, he said.



Remarks from the Chair

NLS Chairperson Mr. Tirtha Man Shakya said that the NLS was quite encouraged by the way the programs have been successfully held. He thanked the support from the Embassy as well as the Chief Minister, Speaker, former Deputy Prime Minister, former Chief Justice, senior officials and assembly members for their help in making the program such a success.

6. Conclusions and Recommendations:

- Regular orientations are necessary since one-off programs are not enough
- Orientation program with province government has become exemplary. Hence such program on capacity building, governance, law making and coordination should be held once every three months
- Orientation program with province assembly, too, has been equally exemplary. Hence such program on capacity building, law making, committee system and coordination should be held once every three months
- Legislative training for local level officials, judicial training for judicial committee members should be conducted to promote governance, transparency, accountability and service delivery
- Research and regular dialogue is necessary to help institutionalize the proper application of federalism as per the constitution.

Nepal Law Society/Embassy of Switzerland in Nepal

Interaction/workshop on Support to Good Governance, Law Making and Justice Delivery in Province -2

Proceeding of Review Meeting

Hotel Summit, Kupondole ● 28 February, 2021

1. Background

With the purpose of supporting the Province Number Two in carrying out effective governance and rule of law, the Nepal Law Society and the Embassy of Switzerland in Nepal have been working together since last one year. During this period, we held planning meetings, orientations for the government officials, and orientations for the province assembly members. We are now planning to hold the orientation for judicial officials in March.

In order to prepare for that orientation, the NLS and the Swiss Embassy has held a planning meeting on February 28, 2021. Below is the minute of the meeting.

2. Agenda

- To plan and prepare for the orientation to judicial officials;
- To identify content and methodology for the orientation.

3. Participants of the Meeting

●	Mr. Kalyan Shrestha - Former Chief Justice, Supreme Court of Nepal
●	Mr. Prakash Man Singh Raut, Justice, Supreme Court
●	Mr. Upendra Yadav, Former Deputy Prime Minister
●	Mr. Tirtha man Shakya - Chairperson, Nepal Law Society
●	Mr. Dipendra Jha Chief Attorney, Province-2
●	Mr. Khim Lal Devkota, Executive Member, NLS
●	Mr. Krishna Man Pradhan Executive Director, NLS
●	Mr. Ganesh Man Pradhan Senior Admin and Program officer, NLS

4. Proceeding of the Review Meeting

The meeting was chaired by NLS chairperson Mr. Tirtha Man Shakya.

At the outset, Executive Director of NLS Mr. Krishna Man Pradhan briefed about the activities and programs completed in the last one year. He said the due to covid situation, the programs were held much later than earlier planned. He talked about the two orientation programs for the province government and the province assembly. As a third component of this initiative, he said, the project was now planning

to hold orientation for judicial officials of Province 2. He said that this is the first such orientation for province-level judicial officials in the new constitutional set up. He talked about the distinct nature of Province 2 in terms of geography, population and political movements. He also talked about distinct challenges faced by the province 2 judicial officials. From the viewpoint of nature of crimes, level of human development and level of good governance, the province 2 judiciary faced unique challenges, he said. He said that the current program was aimed to discuss the challenges and opportunities of provincial judiciary in the context where the constitution has espoused federalism along with integrated judiciary. The role of High Courts and district courts of concerned province are going to be important in this context, he said.

5. Remarks/Feedbacks from the Participants

■ Mr. Deependra Jha, Chief Attorney, Province 2

Mr. Jha said that people of Province 2 face challenges related to access of justice. He also said that nature of cases filed in the province 2 are different. He gave examples of differences in practice and law – whereas people get married between 14-18 years, the law says the marriage should happen in 20 years of age. He also said that lack of education means that people get hoodwinked when they seek loan from local loan-sharks and landlords. He pointed at poor human development level in the province. In this situation, he pointed at total lack of relations between the province assembly and the High Court. At the local level, too, the judicial committees have not functioned well and have been misused politically, he said. Mr. Jha said that in order to address these problems, the project should design program to promote access to justice; and to facilitate the professional relations between the assembly and the judiciary. He also said such orientation should work to promote accountability of judiciary to build their public trust. He said that even change in attitude among judges and court officials could provide a huge relief.

■ Mr. Upendra Yadav, former deputy prime minister of Nepal

Mr. Yadav said he has been engaged in providing leadership to the NLS- Embassy of Switzerland in Nepal program in Province 2. He remembered the programs held to support the province government and the assembly and said they were much effective. He said that program to provide orientation of province level judicial officials, too, should be need based. He called for promoting access to justice. He said most people were scared to approach the court system due to traditional mind set. He worried about the attitudes in the court system that were against the ordinary people. He said that the orientation can help in addressing such situation. Citizens in province 2 include large number of people from minority groups and are backward in terms of resources and knowledge. The fruits of democracy have not reached them. He urged the NLS-Swiss Embassy to reach those communities. He said that the current judicial set up can also reach those communities if they can make the effort. Hence, providing judicial officials with facilitation skills will be helpful. He hoped for development of professional relations and network among the province assembly, province government and province level judiciary. He assured that he will take part full time in the orientation program and speak his mind to the judges and judicial officials.

■ Mr. Prakash Man Singh Raut, Justice, Supreme Court

Justice Raut said that he has been regularly participating in and observing the programs by the NLS. He said he was confident that this program, too, will be effective. He talked about the five year strategic plan of the Supreme Court, which also talks about promoting access to justice. He said he agreed with remarks made by Mr. Jha and Mr. Yadav that province 2 faces unique challenges. Judiciary should make distinct programs to help Province 2. He said judiciary can address these problems through such interactions and orientations. He said the Supreme Court is ready to lend its support and he himself will participate in the orientation.

■ **Mr. Khim Lal Devkota, senior advocate**

Mr. Devkota said the main challenge was to smoothly transform the judicial administration of integrated judiciary in federal structure. He said the proposed program is relevant in this context. He said that a meeting has already been held with province 2 judges and officials to identify their needs.

■ **Mr. Kalyan Shrestha, former Chief Justice**

Mr. Shrestha said that there are big challenges to judiciary in province and local level. In particular, the challenges faced by province 2 are unique in nature. He recalled his tenure as judge in that area in the past and said that concepts like landlord and subjects are still rampant, along with deep divisions on socio-economic lines. He said that there was lack of honesty among the stakeholders, too. He said the program should focus on how to bring about socio-economic changes for their betterment. As regards to judicial program, he said he agreed that the first need is to discuss how to build access to justice so that people can come forward. Then after, one can discuss about effective service delivery, he said. Mr. Shrestha said the judiciary should also be supported to become transparent and accountable so that it can have public trust. He pointed at periodic strategic plans of the Supreme Court that focus on these matters. He urged the NLS, Swiss Embassy to focus on these aspects in the orientation.

■ **Remarks from the Chairperson Mr. Tirtha Man Shakya, Chairperson of NLS**

Mr. Shakya said that the NLS has been organizing programs to support the stakeholders on the basis of actual needs. He said that the current program, too, will follow that model for maximum effectiveness and ownership. He thanked all the participants and the Swiss Embassy in Nepal for their invaluable support.

6. Conclusions and Recommendations:

- The orientation will be held on March 20, 2021
- The orientation will have three sessions – first session on access to justice; second session on networking and collaboration among province assembly, province government and province level judiciary; and third session on judicial accountability and public trust
- Detailed session plan and resource persons to be determined by NLS

Province Assembly / Nepal Law Society / Embassy of Switzerland in Nepal

Interaction/Workshop with Parliamentarians

On Parliamentary Practice, Democratic and Inclusive Law Making Process at Province Level

Hotel Paawan Mithila, Bardibas, Mahottari ● 21 January, 2021

Participants

S. No	Name	Post	Office
1	Hon'ble Mr. Mohammad Lal Babu Raut	Chief Minister	Province 2, Government
2	Hon'ble Mr. Saroj Kumar Yadav	Speaker	Province Assembly Province 2
3	Hon'ble Mr. Satrugan Mahato	Party leader	UML, Province Assembly
4	Hon'ble Mr. Ramsaraj Yadav	Party leader	NC, Province Assembly
5	Hon'ble Ms. Sabitri Devi Shah	Party Leader	SJF, Province Assembly
6	Hon'ble Ms. Jainul Raien	Chairperson	Women Children and Social Justice Committee, Province Assembly
7	Hon'ble Mr. Manish Suman	Chairperson	Economic Affairs and Planning Committee, Province Assembly
8	Hon'ble Mr. Birendra Prasad Singh	Chairperson	Agriculture and Land Management Committee, Province Assembly
9	Hon'ble Mr. Ashok Kumar Yadav	Chairperson	Province Affair Committee, Province Assembly
10	Hon'ble Mr. Sheikh Abul Kalam Ajad	Chairperson	Development Committee, Province Assembly
11	Hon'ble Mr. Lagan Lal Chaudhary	Senior Member	Public Accounts Committee, Province -2
12	Hon'ble Mr. Sailendra Kumar Yadav	Chief Whip	Province Assembly
13	Hon'ble Mr. Parmeshwor Shah	Chief whip	Province Assembly
14	Hon'ble Ms. Chameli Devi Das	Member of Parliament	Province Assembly
15	Hon'ble Ms. Sancha Maya Moktan	Member	Province Assembly
16	Hon'ble Mr. Ram Ashis Yadav	Member	Province Assembly
17	Hon'ble Mr. Sihasan Kalbar	Member	Province Assembly
18	Hon'ble Ms. Surita Kumari Shah	Member	Province Assembly
19	Hon'ble Ms. Rani Kumari Tiwari	Member	Province Assembly
20	Hon'ble Mr. Babu Lal Shah	Member	Province Assembly
21	Hon'ble Dr. Reena Yadav	Member	Province Assembly
22	Hon'ble Ms. Sarada Devi Thapa	Member	Province Assembly
23	Hon'ble Mr. Upendra Prasad Kushwaha	Chief whip	Province Assembly

S. No	Name	Post	Office
24	Hon'ble Mr. Shiva Chandra Chaudhary	Member	Province Assembly
25	Hon'ble Ms. Saraswoti Chaudhary	Member	Province Assembly
26	Hon'ble Mr. Naresh Kumar Yadav	Member	Province Assembly
27	Hon'ble Ms. Pramila Devi Das	Member	Province Assembly
28	Hon'ble Mr. Laxman Lal Karna	Member	House of Representative
29	Hon'ble Ms. Alka Kumari Jha	Member	Province Assembly
30	Hon'ble Ms. Babita Kumari Chaudhary	Member	Province Assembly
31	Hon'ble Mr. Ram Kishwor Prasad Yadav	Member	Province Assembly
32	Hon'ble Mr. Kausal Kumar Yadav	Member	Province Assembly
33	Hon'ble Mr. Upendra Yadav	Former Deputy Prime Minister	Nepal Government
34	Hon'ble Mr. Parash Prasad Shah	Member	Province Assembly
35	Hon'ble Ms. Kiran Kumari Rai	Member	Province Assembly
36	Hon'ble Mr. Kalyan Shrestha	Former Chief Justice	Supreme Court of Nepal
37	Hon'ble Mr. Sanjaya Yadav	Member	Province Assembly
38	Hon'ble Mr. Janat Ansari	Member	Province Assembly
39	Hon'ble Mr. Bachha Prasad Yadav	Member	Province Assembly
40	Mr. Ranjit Kumar Yadav	Secretary	Province Assembly Secretariat
41	Mr. Arun Kumar Jha	Deputy Secretary	Province Assembly Secretariat
42	Mr. Dharmendra Lal Karna	Officer	Province Assembly Secretariat
43	Mr. Shankar Lal Karna	Officer	Province Assembly Secretariat
44	Mr. Mohammad Sarif	Officer	Province Assembly Secretariat
45	Ms. Rekha Yadav	Officer	Province Assembly Secretariat
46	Mr. Saroj Kumar Yadav	Officer	Province Assembly Secretariat
47	Mr. Khim Lal Devkota	Senior Advocate	Kathmandu
48	Mr. Indra Kumar Bharkhar	Technical Assistant	Province Assembly Secretariat
49	Mr. Mohan Lal Acharya	Legal Expert	Nepal Law Society
50	Mr. Ramdular Paswan	Technical Assistant	Province Assembly Secretariat
51	Mr. Parsuram Meghi Gurung	Chairperson	Legislation Management committee, National Assembly
52	Mr. Sujit Kumar Yadav	Officer	Province Assembly Secretariat
53	Ms. Rekha Kumari Jha	CIC Chief	CIC Janakpur
54	Dr. Uma Shankar Prasad	Expert	NLS

S. No	Name	Post	Office
55	Mr. Atish Kumar Mishra	Press Coordinator	Province Assembly Secretariat
56	Mr. Ganesh Man Pradhan	Sr. Admin/ Program Officer	Nepal Law Society
57	Mr. Krishna Man Pradhan	Executive Director	Nepal Law Society
58	Ms. Saraswoti Dangol	Advocate	Expert

Chief Minister's Office / Nepal Law Society / Embassy of Switzerland in Nepal

Interaction/Workshop with Parliamentarians

On Effective Service Delivery at Province Level - Federal Perspective

Hotel Paawan Mithila, Bardibas, Mahottari ● 22 January, 2021

Participants

S. No	Name	Post	Office
1	Hon'ble Mr. Mohammad Lal Babu Rawot	Chief Minister	Province 2 Government
2	Hon'ble Mr. Jitendra Sonal	Minister	Ministry of Physical and Infrastructure Development
3	Hon'ble Mr. Bijaya Kumar Yadav	Minister	Ministry of Economic Affairs and Planning
4	Hon'ble Mr. Sailendra Kumar Shah	Minister	Ministry of Land Management and Cooperative
5	Hon'ble Mr. Ramnaresh Raya	Minister	Minister of Industries, Tourism, forest and Environment
6	Hon'ble Ms. Usha Yadav	State Minister	Minister of Financial Affair and Planning
7	Hon'ble Mr. Saroj Kumar Singh	State Minister	Minister of Internal Affair and Law
8	Hon'ble Ms. Dimple Kumari Jha	State Minister	Ministry of Physical Infrastructure Development
9	Hon'ble Mr. Suresh Kumar Mandal	State Minister	Ministry of Industry Tourism and Environment
10	Hon'ble Mr. Upendra Yadav	Former Deputy Prime Minister	Nepal Government
11	Hon'ble Mr. Laxman Lal Karna	Member	House of Representative
12	Hon'ble Mr. Ram Dular Paswan	Member	Province Assembly
13	Hon'ble Mr. Balananda Poudel	Chairperson	Natural Resource and Fiscal Commission

S. No	Name	Post	Office
14	Mr. Gokarna Mani Duwadi	Chief Secretary	Province 2 government
15	Mr. Bhupal Baral	Secretary	Ministry of Chief Minister and office of Ministerial Council
16	Mr. Tikaram Pandey	Secretary	Ministry of Chief Minister and office of Ministerial Council
17	Mr. Kashiraj Dahal	Secretary	Ministry of Economic Affairs and Planning
18	Dr. Ramchandra kandel	Secretary	Ministry of Tourism, Industry and Environment
19	Ms. Samjhana Kumari Kafle Pandey	Secretary	Ministry of Land Management and Cooperative
20	Mr. Ram Adhar Sah	Secretary	Ministry of Physical Infrastructure Development
21	Mr. Krishna Prasad Kapri	Secretary	Ministry of Social Development
22	Mr. Gokul Bhujel	Legal Officer	Minister of Economic affair and Planning
23	Mr. Jagannath Jaiswal	Under Secretary	Minister of Industry, Tourism Forest and Environment
24	Mr. Lalan Kumar Singh	Under Secretary	Ministry of Land management Agriculture and Cooperative
25	Mr. Thulobabu Dahal	Officer	Minister of Social Development
26	Mr. Indra Kumar Bharkher	Technical Officer	Provincial Assembly Secretariat
27	Mr. Mohan Acharya	Legal Expert	Nepal Law Society
28	Mr. Atish Kumar Mishra	Media Officer	Provincial Assembly Secretariat
29	Mr, Khim Lal Devkota	Senior Advocate	Nepal Law Society
30	Mr. Parsuram Meghi Gurung	Chairperson	Legislation Management Committee, National Assembly
31	Mr. Surendra Mahato	Legal Officer	Ministry of Internal Affair and Law
32	Mr. Dilip Kumar Pradhan	Under Secretary	Minister of Chief Minister and Office of the Council of Ministers
33	Mr. Ranjeet Kumar Yadav	Secretary	Provincial Assembly Secretariat
34	Mr. Arun Kumar Jha	Under Secretary	Provincial Assembly Secretariat
35	Ms. Rekha Kumari Jha	Chief	CIC Janakpur
36	Ms. Saraswoti Dangol	Expert	Nepal Law Society
37	Mr. Krishna Man Pradhan	Executive Director	Nepal Law Society
38	Mr. Ganesh Man Pradhan	Sr. Admin/ Program officer	Nepal Law Society

Interaction Workshop on
Judiciary Service Delivery: Expectations and Role of
Province and Local Government

Organized by High Court Janakpur, Chief Attorney's Office and Nepal Law Society

Bardibas, Mahottari, Province 2 ● March 20, 2021

Participants

S. No	Name	Post	Office
1	Hon'ble Mr. Upendra Yadav	Former Deputy Prime Minister	Government of Nepal
2	Hon'ble Mr. Mohmmad Lal Babu Rawot	Chief Minister	Province 2 Government
3	Hon'ble Mr. Kalyan Shrestha	Former Chief Justice	Supreme Court of Nepal
4	Hon'ble Mr. Gyanendra Kumar Yadav	Minister of Internal Affairs and Law	Province Government
5	Hon'ble Mr. Laxman Lal Karna	Member	House of representative
6	Hon'ble Mr. Prakash Man Singh Raut	Justice	Supreme Court
7	Hon'ble Mr. Dipendra Jha	Chief Attorney	Province Government
8	Mr. Khim Lal Devkota	Senior Advocate	Nepal Law Society
9	Mr. Krishna Man Pradhan	Executive Director	Nepal Law Society
10	Mr. Ganesh Man Pradhan	Senior Admin/ Program Officer	Nepal Law Society
11	Ms. Saraswoti Dangol	Expert	Nepal Law Society
12	Ms. Rekha Kumari Jha	Focal Person	CIC, Janakpur
13	Ms. Pratigya Simkhada Bastola	Senior Governance Advisor	Embassy of Switzerland, Nepal
14	Hon'ble Mr. Dilli Acharya	Chief Judge	High Court Rajbiraj
15	Hon'ble Mr. Dwarika Man Joshi	Judge	High Court Rajbiraj
16	Hon'ble Dr. Rabi Aryal	Judge	High Court Rajbiraj
17	Hon'ble Mr. Dipendra Adhikari	Judge	High Court Rajbiraj
18	Hon'ble Mr. Basudev Acharya	Judge	High Court Rajbiraj
19	Hon'ble Mr. Tanka Prasad Gurung	Judge	High Court Rajbiraj
20	Mr. Ram Prasad Bhattarai	Registrar	High Court Rajbiraj
21	Hon'ble Mr. Prakash Chandra Gajurel	Chief Judge	High Court Janakpur
22	Hon'ble Mr. Bal Krishna Upreti	Judge	High Court Janakpur
23	Hon'ble Mr. Hari Prasad Bagale	Judge	High Court Janakpur
24	Hon'ble Mr. Lekh Nath Ghimire	Judge	High Court Janakpur
25	Hon'ble Ms. Prabha Basnet	Judge	High Court Janakpur
26	Hon'ble Mr. Ramesh Dhakal	Judge	High Court Janakpur
27	Hon'ble Mr. Ujjal Sukla	Judge	High Court Janakpur

S. No	Name	Post	Office
28	Mr. Khadgaraj Adhikari	Registrar	High Court Janakpur
29	Hon'ble Ms. Saranga Subedi	Chief Judge	High Court Birgunj
30	Hon'ble Mr. Shekhar Prasad Poudel	Judge	High Court Birgunj
31	Hon'ble Mr. Ramesh Kumar Pokhrel	Judge	High Court Birgunj
32	Hon'ble Mr. Shanta Sedhai	Judge	High Court Birgunj
33	Hon'ble Mr. Anju Upreti Dhakal	Judge	High Court Birgunj
34	Hon'ble Mr. Kiran Kumari Gupta	Judge	High Court Birgunj
35	Hon'ble Mr. Sadhuram Sapkota	Judge	High Court Birgunj
36	Mr. Thagendra Kattel	Registrar	High Court Birgunj
37	Hon'ble Mr. Pushpa Raj Thapaliya	Judge	Siraha District Court
38	Mr. Jagadiswor Bhattari	Registrar	Siraha District Court
39	Hon'ble Mr. Chandra Mani Gyawali	Judge	Saptari District Court
40	Hon'ble Mr. Ambika Prasad Dahal	Judge	Saptari District Court
41	Mr. Kumar Maskey	Registrar	Saptari District Court
42	Hon'ble Mr. Brajesh Pyakurel	Judge	Dhanusha District Court
43	Hon'ble Mr. Tej Narayan Poudel	Judge	Dhanusha District Court
44	Hon'ble Mr. Krishna Murari Shivakoti	Judge	Dhanusha District Court
45	Mr. Bikash Basnet	Registrar	Dhanusha District Court
46	Hon'ble Mr. Dipak Kumar Kharel	Judge	Mahottari District Court
47	Hon'ble Dr. Ramesh Prasad Rijal	Judge	Mahottari District Court
48	Mr. Madan Prasad Jaisawal	Registrar	Mahottari District Court
49	Hon'ble Mr. Dhurba Kumar Piya	Judge	Sarlahi District Court
50	Hon'ble Mr. Durga Dhungel	Judge	Sarlahi District Court
51	Mr. Gyan Bahadur Karki	Registrar	Sarlahi District Court
52	Hon'ble Mr. Dayaram Dhakal	Judge	Bara District Court
53	Mr. Gambhir Ghimire	Registrar	Bara District Court
54	Hon'ble Mr. Dharma Raj Poudel	Judge	Parsa District Court
55	Hon'ble Mr. Ramesh Prasad Gyawali	Judge	Parsa District Court
56	Hon'ble Mr. Rajesh Kumar Katwal	Judge	Parsa District Court
57	Mr. Krishna Prasad Adhikari	Registrar	Parsa District Court
58	Hon'ble Mr. Baburam Subedi	Judge	Rautahat District Court
59	Mr. Sushil Yadav	Registrar	Rautahat District Court
60	Mr. Indra Kumar Bharkher	Technical Officer	Secretariat Province Secretariat
61	Mr. Ramdular Paswan	Janakpur	Province Assembly Secretariat
62	Mr. Madhusudan Chaudhary	Focal Person	CIC Biratnagar
63	Mr. Shekhar Prasad	Janakpur	Office of Chief Attorney
64	Mr. Dipendra Kumar Das	Janakpur	Office of Chief Attorney
65	Mr. Atish Kumar Mishra	Janakpur	Secretariat Province-2

Nepal Law Society Executive Committee



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Former Chairperson



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Member



Mr. Krishna Man Pradhan
Executive Director

About Nepal Law Society

The Nepal Law Society was established in 1982 by luminaries of law and justice field with the purpose to support the development of rule of law, independent judiciary and good governance. The Society has around 300 members including judges, lawyers, experts in law and justice, and law professors

Major Program Areas

Independent Judiciary, Constitutional Development, Rule of Law / Good Governance, Human Rights, Women and Gender Justice, Good Governance and Development

Major Objectives

To support the development, protection, promotion and policy capacity building in the areas of rule of law, human rights, independent judiciary, and good governance through research, training, interaction, workshop, conference as well as holding of public awareness program for empowerment by publishing various books, reports and bulletin

Strategies

The Society shall adopt the strategy to support the development of rule of law, good governance, human rights and independent judiciary to facilitate the institutional development of federal structure with the involvement of stakeholders. The Society has been working through the establishment of Civic Initiative Centers in all seven provinces to provide technical assistance in law making to the federation, province and local legislature, executive and judiciary and to ensure citizen engagement in law making by working in collaboration with various stakeholders in federation, province and local level. The Society has been working to support the formulation of necessary laws as per the Constitution of Nepal in coordination with province assembly, province government and local governments in order to promote the fundamental rights of citizens and to build their capacities. The Society has organized research, workshop, interaction, training in various sectors and published different reports and books. In order to hold programs in all districts of the country, the Society has a well-developed network and affiliations of its members, contact persons, local associations and institutions. The Nepal Law Society is an active member of International Bar Association, and is affiliated to the International Commission of Jurists and ANFREL.

नेपाल कानून समाज NEPAL LAW SOCIETY

Babarmahal, Kathmandu, Nepal

Phone : 00977-01-4102196, 4102381, 4102382

Post Box No. : 13211

Email : nls@wlink.com.np

Website : www.nepallawsociety.org

