

# FUNCTIONING of, and PARTICIPATION in, PROVINCIAL ASSEMBLIES

February 2020



**DEMOCRACY**  
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# Functioning of, and Participation in, Provincial Assemblies

February 2020



Democracy Resource Center Nepal (DRCN)

# **Functioning of, and Participation in, Provincial Assemblies**

## **A Study Report**

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**Democracy Resource Center Nepal**  
Lalitpur

## INTRODUCTION

The centralized unitary system could not address Nepal's gender-based, cultural, linguistic, and geographic diversity and inequalities. There were attempts to involve the citizenry in the governance process and decentralize services to the lower agencies. However, these attempts, arising from a centralized system, were largely unsuccessful. All along, a particular ethnic caste, community and class had been monopolizing influence over the various agencies of the state. The erstwhile Communist Party of Nepal Maoists (CPNM) staged an armed revolt built on the foundation of the dissatisfaction of communities who were left out of the state mechanism. Although CPNM had exercised autonomous provinces based on ethnicity and geography, *The Interim Constitution of Nepal 2007* issued after they came into the peace process did not guarantee federalism. The Madhesh Movements happened as a protest against this and demanded federalism. To address the demands of the Madhesh Movements, the provision for state-restructuring based on a federal system was included in the Interim Constitution through an amendment. *The Constitution of Nepal* promulgated by the Constituent Assembly in 2015 provided for the exercise of citizens' power through a three-level federal system consisting of the federal, provincial and local governments.

Under the federal system, there are seven provinces in Nepal. Every province has a unicameral legislature called the Provincial Assembly. Elections for the members of provincial assemblies took place in two phases across all seven provinces on 26 November and 7 December 2017. The main functions of provincial assemblies include making laws and providing oversight of provincial governments.

The effectiveness with which provincial assemblies fulfill their legislative and oversight functions will help in determining the course in implementation of federalism. As the provincial assembly is a new exercise, its initial activities and achievements may provide guidelines for the future. Activities of the representatives elected by citizens are also a matter of public concern, and deserve discussion. This study was conducted with an objective of bringing the functions and activities of provincial assemblies into public discourse. This report consists of an assessment of the achievements of provincial assemblies and challenges they have faced, and is expected to assist in providing lessons for implementation of federalism.

## METHODOLOGY

This report focuses on overall functioning of provincial assemblies with particular focus on the participation by provincial assembly members in discussions and activities of various thematic committees.<sup>1</sup> It uses bulletins prepared by provincial assembly secretariats to determine how many times members participated in different discussions.<sup>2</sup> Adequate information and data necessary for the study was available on Bagmati Province, Province 5, Karnali Province and Sudurpashchim Province.<sup>3</sup> The data available on Province 1 and Province 2 were incomplete. During the course of this research all provinces except Province 2 had completed their third sessions. The third sessions were chosen to make it easier to obtain the documentation. However, as documentation on the Third Session of Province 1 was not available, the Fourth Session was included instead. Although there were 54 meetings in this session, the secretariat

could only make bulletins for 34 meetings available. Therefore, only these 34 meetings formed the basis for evaluating participation in discussions. In Province 2, of the 50 meetings conducted, documentation for two meetings was unavailable. As Gandaki Province had not maintained documentation of any of its meetings, it could not be included in this research.<sup>4</sup> Nevertheless, the report includes the experiences of members' participation in that province through interviews.

Details of assembly members' participation during zero hour, special hour, and discussion on bills across provinces have been presented in different tables. Some bulletins did not clearly specify whether a particular discussion took place during zero hour or special hour.<sup>5</sup>

The report has categorized and compared provincial assembly members' participation in discussions between electoral systems – first-past-the-post (FPTP)

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<sup>1</sup> The term 'participation' in this report refers to the active vocal participation by assembly members in formal discussions and not just attendance in the assembly.

<sup>2</sup> As provided in provincial assembly regulations a 'bulletin' contains information on different activities of the provincial assembly with a summary description, information about thematic committees, and other issues deemed important by the speaker. The regulations also require that bulletins of the previous assembly meeting be distributed to members before every meeting. In Province 2, the details of 15 assembly meetings whose bulletins were unavailable, were received from the 'reading paper' used by the speaker. No documentation was available for the second and the 43rd meetings.

<sup>3</sup> The Sudurpashchim Provincial Assembly Secretariat was very hesitant to provide the bulletins to DRCN.

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<sup>4</sup> Provincial assemblies did not systematically keep the list of routine proceedings and bulletins within public access. However, the bulletins and other documents of the Federal Parliament are publicly accessible and available at <http://hr.parliament.gov.np>; accessed 29 December 2019. For example, bulletins for the 63rd, 64th, and 65th meetings of the Fourth Session of House of Representatives (HoR) are available at <http://hr.parliament.gov.np/np/notices/1569746350>; accessed 29 December 2019. Bagmati Provincial Assembly recently started publishing its bulletins online at <http://pradeshsabha.p3.gov.np/wp-content/uploads/2019/10/81.pdf>; accessed 29 December 2019.

<sup>5</sup> While categorizing, some discussions that took place during zero hour may have been categorized under special hour and vice versa.

and proportional representation (PR) – genders, and political parties. The speaker, deputy speaker and members of the council of ministers have not been included in the tally for discussions.<sup>6</sup> Various aspects of provincial assembly discussions were evaluated through interviews with concerned stakeholders including speakers, deputy speakers, ministers of provincial governments, chairpersons of thematic committees,

chief whips of major political parties, whips and members of provincial assemblies, provincial assembly secretariat officials, representatives of political parties, and journalists active in parliamentary affairs.<sup>7</sup> While conducting interviews, attention was given to ensuring the representation of the diversity within provincial assemblies in terms of political parties, electoral systems, genders, and ethnicities. The study also used annual reports prepared by some thematic committees.

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<sup>6</sup> The reason for excluding these members is because they do not participate in regular assembly meetings.

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<sup>7</sup> Barring some exceptions, names of individuals are not mentioned, considering sensitivity and confidentiality issues.



## LEGAL PROVISIONS AND PRACTICE

### PROVISIONS RELATING TO THE OPERATION OF THE PROVINCIAL ASSEMBLY

All provincial assemblies passed their provincial assembly regulations after their formation in 2018. Provincial assembly regulations detail the parliamentary processes.<sup>8</sup> Although these regulations are similar in content because they were drafted on the basis of a model law issued by the federal government, some provisions varied between provinces. Article 193 of *The Constitution of Nepal* provides for the formation of thematic committees or special committees as per the respective provincial regulation. Chairperson and members of such committees are elected from among the members of the provincial assembly. The Provincial Assembly Regulation governs the participation of the members in the provincial assembly. The jurisdiction and meetings of the committees will be in accordance with both the Provincial Assembly Regulation and their respective procedures.

Article 195 of *The Constitution of Nepal* provides for a secretariat to conduct daily tasks, operation, and management of the provincial assembly. Assemblies also promulgated a separate Act on the operation of the provincial assembly secretariat. The Act lays down the responsibilities of the secretariat in assisting in the legislative work of the provincial assembly and its

various thematic committees. The Act also states that the secretariat shall provide administrative, financial, and material support in order to make the work of the provincial assembly regular, effective, and well-managed. The secretariat has the responsibility to provide benefits and services to assembly members and various committees, to make the information system effective, and to provide security for the assembly premises.

As the provincial assembly is a new exercise, there is no previously established convention and precedents in the functioning of the assembly. Provincial assemblies are sovereign and independent in establishing their own processes and procedures. However, they adopted traditional parliamentary processes of discussion such as zero hour and special hour.

### PARTICIPATION THROUGH QUESTION AND ANSWER SESSIONS

Regulations of all the seven provincial assemblies provide their members the right to ask questions and participate in discussions on any issue of public importance that fall within the scope of provincial governments. The concerned minister then must appear before the parliament within a fixed period and answer questions in writing or orally as demanded by the member who raised the question.

None of the provinces had begun its question and answer sessions as of January 2020. Provincial assembly secretariat officials claimed that sessions could not begin due to the lack of employees and microphones.

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<sup>8</sup> Acharya, Ramkumar, 2011. *Nepalma Vidhayan Tarjuma: Sambandhit Kanunharu, Prakriya ra Vidhayan Tarjumama Digdarshanko Avashyakata, Kanun Tarkjumasambandhi Avadharanatmak Pakshaharu*. Kathmandu: Nepal Law Commission.

However, the speaker of Gandaki Provincial Assembly said that although they had attempted to begin this exercise, the members did not submit any questions.

## DISCUSSIONS DURING ZERO HOUR

In parliamentary practice, the time allocated by speaker to the members to bring issues of public concern to the notice of the government is known as zero hour. The speaker has the discretion to decide whether there shall be a zero hour on the day the assembly is in session. In zero hour, each member is allotted equal time, the duration of which is provided in provincial assembly regulations.

Zero hour had been exercised most frequently in Province 1 and Karnali Province. Generally, one minute is allotted for each member. However, in Province 1 every member was allotted three minutes, while members in Sudurpashchim Provincial Assembly were allowed between three and five minutes. In Province 1, members were given three minutes as they could not finish presenting their opinions in the allotted one minute. In Karnali Province, zero hour had not been allotted a fixed duration. Province 5 had exercised zero hour for a while but it could not continue as a lack of microphones required members to walk to the rostrum to speak anyway. Likewise, Province 2 also exercised zero hour for some time but it was not effective as there was not enough interest from the members.

## DISCUSSIONS DURING SPECIAL HOUR

The speaker usually calls for the special hour after the time allocated for zero hour ends. In parliamentary practice, special hour refers to the time given to political parties in proportion to the number of a political party's members in the parliament. Once the speaker allocates time to the political parties, the chief whip or whip of the respective party decides how much time the party will allocate internally to its members. Provincial assembly regulations of all seven provinces had provisions

allowing the speaker to decide the frequency of special hour based on the amount of business.

The practice was for members who wanted to speak during special hour to submit their names to the speaker through their party's chief whips. In Province 1, members already had enough time to say what they wanted during zero hour, and therefore special hour was exercised less often. In Province 2 and Gandaki Province, political parties were allocated time according to their total number of members, with the names of participating members passed on to the speaker through the chief whip of the concerned party. In Province 2, the time given for special hour was around one hour 30 minutes in each meeting. Here, along political party lines, Nepal Communist Party (NCP) got 27 minutes, Samajbadi Party Nepal (SPN) 24 minutes, Rashtriya Janata Party Nepal (RJPN) 20 minutes and Nepali Congress (NC) 15 minutes. In Gandaki Province, NCP got 39 minutes, NC 15 minutes, and 12 minutes were divided between Naya Shakti Party Nepal (NSPN) and Rashtriya Janamorchha (RJM).<sup>9</sup> Province 5 and Karnali Province had not determined the time duration for special hour. In Province 5, each member got five minutes to speak, and also, members who wanted to speak registered their names directly with the secretariat instead of going through their party whip. *Province 5 Assembly Regulation 2018* includes a provision where the topic to be discussed by the members has to be specified beforehand. Since Karnali Province had fewer provincial assembly members, there was adequate time for discussion and each member was allotted between five and 10 minutes.

## DISCUSSIONS ON BILLS

One of the main responsibilities of a provincial assembly is to promulgate laws. Bills presented by a minister of a provincial government or a member of

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<sup>9</sup> Naya Shakti Party Nepal (NSPN) and Sanghiya Samajbadi Forum united to form Samajbadi Party Nepal (SPN) on 6 May 2019.

the provincial assembly will be approved as per the legislative procedures according to provincial assembly regulations. Bills introduced by the government are known as government bills while those presented by individual members are known as private bills. Provincial assembly members have ample time to introduce a bill or register an amendment proposal on any bill, and participate in discussions over the bill. Although provincial assembly members had the right to register private bills, they were not adequately aware of this process. There was not a single private bill registered in any provincial assembly as of January 2020.

When a bill is introduced before the assembly, a discussion on the rationale of the bill is conducted. This is followed by a clause-by-clause or topical discussion on the bill either in the assembly or in the relevant committee. Finally, a discussion is conducted in the assembly to decide whether or not to pass the bill.<sup>10</sup> After the bill is introduced, assembly members participate in a general discussion on a day indicated by the speaker. They also participate in detailed discussions in the assembly or in the relevant committee. Members participate in the final discussion on the bill after it is presented in the assembly by the relevant committee. Members may also participate in discussions on the amendment proposal of the bill. But comprehensive discussions on the bill usually occur in thematic committees.

## **DISCUSSIONS THROUGH VARIOUS MOTIONS**

Provincial assembly regulations provide members the right to raise questions and propose motions on necessary issues. Such motions include resolution motion, motion on urgent matter of public importance, calling attention motion, amendment motion, and motion to adjourn. The member must first register the

motion with the provincial assembly secretariat prior to presenting it in the assembly. The secretariat then submits the motion to the speaker. And it is presented before the assembly only when the speaker allocates time for the motion.

Provincial assemblies had exercised the motion on urgent matter of public importance and the calling attention motion. For example, in Province 1, members of NC registered a motion on urgent matter of public importance to discuss the floods and landslides of 2019. In Province 2, a motion of urgent matter of public importance was registered to discuss the impacts of the storm in Bara and Parsa districts.

## **PROVISION FOR CITIZENS TO PRESENT MOTIONS BEFORE PROVINCIAL ASSEMBLIES**

Except for Province 1, other provinces have the provision allowing a citizen to present a motion on matters of public interest. As provided in provincial assembly regulations, if decisions made by the concerned provincial government, its council of ministers, and non-government agencies affect a citizen residing in the province, the citizen may use this provision. For this, a request letter clarifying the subject, signed by a minimum of 100 individuals and verified by three provincial assembly members, should be presented as a motion before the assembly.<sup>11</sup> Although this is a democratic system, it had not been publicized and promoted adequately and citizens were unaware about it. This provision was not used in any provincial assembly as of January 2020. One provincial assembly secretary accepted the need to promote and publicize this provision widely.

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<sup>10</sup> In parliamentary practice, these three processes are known as first reading, second reading, and third reading.

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<sup>11</sup> According to the *Provincial Assembly Regulation (Amended) 2018* of Gandaki Province, the resolution must be signed by 700 individuals.

## FORMATION AND FUNCTIONING OF PROVINCIAL ASSEMBLIES

### 4.1 FORMATION OF PROVINCIAL ASSEMBLIES

From each constituency for the HoR, the Constitution has provisions for two members to be elected to the respective provincial assembly under the FPTP. The total numbers of members in provincial assemblies vary. However, as shown in Table 1, 60 percent of members of each provincial assembly were elected through the FPTP electoral system and 40 percent were elected through the PR system. On the PR side, there are representatives from the Dalit, Indigenous Nationalities, Khas Arya, Madheshi, Tharu, Muslim, backward regions, and minority communities reflecting the proportion of their population. Likewise, of the

total members elected from every party represented in provincial assemblies, one third are women. Province 5 has the highest proportion of women representatives (38%) while Karnali Province has the lowest proportion of women (32.5%) [See: Table 1].

### 4.2 PHYSICAL INFRASTRUCTURE AND EMPLOYEE MANAGEMENT

As the provincial assembly structure is a completely new exercise it was natural for challenges to arise initially in physical infrastructure and employee management. But even two years after their formation, problems persisted.

The appointment of secretaries had facilitated a better operation of provincial assemblies but the activities

**Table 1: Composition of Provincial Assemblies on the basis of genders and electoral systems\***

Province	Number of assembly members	Gender		Electoral System	
		Female	Male	Elected through first-past-the-post (FPTP)	Elected through proportional representation (PR)
1	93	32 (34.4%)	61 (65.6%)	56 (60.2%)	37 (39.8%)
2	107	37 (34.6%)	70 (65.4%)	64 (59.8%)	43 (40.2%)
Bagmati	110	37 (33.6%)	73 (66.4%)	66 (60%)	44 (40%)
Gandaki	60	20 (33.3%)	40 (66.7%)	36 (60%)	24 (40%)
5	87	33 (37.9%)	54 (62.1%)	52 (59.8%)	35 (40.2%)
Karnali	40	13 (32.5%)	27 (67.5%)	24 (60%)	16 (40%)
Sudurpashchim	53	18 (34%)	35 (66%)	32 (60.4%)	21 (39.6%)

*\*This table has been updated to include the results of the by-elections held on 30 November 2019.*

of provincial assemblies continued to be affected as a consequence of the lack of physical infrastructure and employees. Provincial assembly secretariats, halls for provincial assemblies, chambers for thematic committees, parliamentary offices for political parties, and libraries are important physical infrastructure required for the proper functioning of assemblies. Just as employees with thorough knowledge of parliamentary processes are needed, personnel with special technical skills, such as microphone operators, recording operators and electricians, are also instrumental for the smooth functioning of a provincial assembly.

Provincial assemblies were functioning out of existing district and regional office buildings. It had been difficult to operate provincial assemblies in buildings constructed for other purposes. In Karnali Province, the Provincial Assembly was operating out of the erstwhile Regional Educational Training Center building in Surkhet. In Butwal, the capital of Province 5, due to the lack of government buildings, the Provincial Assembly and Secretariat had been established in the Federation of Nepalese Chambers of Commerce and Industry building. The offices of thematic committees were in the Manav Sewa Ashram building. The parliamentary party offices were in the Petroleum Dealers Association building and the library was in the Jaycees building.

Except for Karnali Province, other provinces did not have appropriate assembly halls. The Provincial Assembly hall of Province 2 was in the erstwhile Regional Educational Training Center building. Although other physical infrastructure were satisfactory, the assembly hall was inappropriate. A ribbon in the hall separated seating areas for assembly members from that for the audience and journalists. Not more than two technicians could fit into the technical room of the meeting hall. Microphones were not available for members in Province 1, Bagmati Province and Province 5. Consequently, they had to go to the rostrum to participate in various discussions. Although it is a common parliamentary practice to bang the desk in front in support of a motion or speech, in these provinces the

members had to make do with clapping. Due to a lack of desks, the exercise of taking time from the speaker by banging the desk was not practiced.<sup>12</sup>

Although Province 5 had begun the practice of zero hour, it was eventually stopped because of the lack of microphones on the table in front of members. Assembly members complained of back pain after having to sit for a long time on uncomfortable chairs in the hall. Meeting rooms of the committees were also uncomfortable and inadequate. The Provincial Assembly hall of Bagmati Province was narrow, while thematic committees had to use the same meeting room in turns. Various thematic committees of Sudurpashchim Provincial Assembly were also conducting their meetings in narrow rooms.

Bagmati Province, Province 2, Gandaki Province, Province 5 and Karnali Province had a separate pigeonhole where members' documents and bills are put. However, in Province 1 and Sudurpashchim Province pigeonholes were not used due to the lack of space in the assembly building. Yet, *Provincial Assembly Regulation of Sudurpashchim Province 2018* states that documents and notices meant for a member should be put into their pigeonholes.

Speakers and deputy speakers of all seven provinces reached the conclusion that assembly halls and secretariat buildings must be equipped with modern technology and other necessary infrastructure.<sup>13</sup> However, a member of Bagmati Provincial Assembly from Bibeksheel Nepali argued that provincial governments determined priorities that contradicted the

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<sup>12</sup> In Nepal, the practice of banging the desk by the members to draw the attention of the speaker on urgent matters is referred to as *dhyap-dhyap*, or desk-banging method.

<sup>13</sup> Conclusions of the Inter-Provincial Assembly Experience Exchange and Interaction Program attended by speakers and deputy speakers of all seven provinces to implement *The Constitution of Nepal* and make the activities of the provincial assemblies simple, well-managed and effective. The meeting was held in Sauraha, Chitwan on 15 December 2018.



conclusions reached by speakers and deputy speakers. He said, “Making provincial assemblies better managed is not in the priority of provincial governments. Instead of investing in the physical infrastructure such as the management of the secretariat, provincial governments are busy distributing money to their members through various schemes that imitate the much criticized Constituency Development Fund (CDF) under the Federal Parliament.”

The Constitution provides for each chief of the province to appoint a secretary to the provincial assembly as per the recommendation of the speaker. In Province 2 and Sudurpashchim Province, secretaries were chosen from within the civil service. In Province 1, Bagmati Province, Province 5, and Karnali Province, secretaries were appointed from outside the bureaucracy. In Gandaki Province, a secretary could not be appointed as the *Bill Regarding the Secretariat of the Provincial Assembly* had not been promulgated. According to the speaker of Gandaki Province, the model law issued by the federal government required the secretary to the provincial assembly to be an employee of the special class. The bill was not taken forward because that provision would have ranked the secretary above the deputy speaker in the order of precedence. In Gandaki Provincial Assembly an acting secretary was operating the secretariat. Provincial assembly members were of the opinion that since the federal government had already ended the debate on the order of precedence, the bill related to the secretariat needed to be approved at the earliest.

Another factor affecting activities of provincial assemblies was related to employees. A secretary of a provincial assembly said that the employees appointed for provincial assemblies as decided by the federal government were not only inadequate but also impractical. Regardless of the total number of members in the provincial assemblies, only 36 positions were approved for each provincial assembly. Accordingly, there were approved positions for seven marshals including six office assistants and vehicle driver, and

one police inspector. Besides, 22 employees were appointed for the actual work of operating the assembly.

In Karnali Province, as the work of the committees and the assembly secretariat was not regular, the available personnel were carrying out dual roles as required. In Province 5, only 22 employees of the 36 approved positions were available. The posts of joint secretaries, deputy secretaries, officers and computer operators each had one person fewer than the approved numbers. Here, the accountant was undertaking the responsibilities of the committee secretary.

In Sudurpashchim Province and Bagmati Province, the provincial assemblies were being operated by an even smaller number of employees than the 36 approved positions. These provincial assemblies had 26 and 30 employees respectively. *Pradesh Sabha Darpan* published by Bagmati Provincial Assembly Secretariat mentions how it was difficult to work with these limited positions and how a new employee structure was needed:

Only 30 positions, from secretary to vehicle driver were approved to operate the Provincial Assembly Secretariat. This workforce has so far been able to conduct functions related to the Business Consultative Committee, administration, accounts, bills, voucher registration, and storage. But it was not possible to provide support staff to the offices of parliamentary parties, five thematic committees, and offices of the speaker, the deputy speaker, and the provincial assembly secretary. Similarly, there were inadequate staff for managing documentation, question and answer sessions, planning and training. Due to this, it is deemed necessary to carry out major improvements in secretariat organization, operational processes, human resource development, and research and investigation. To make the activities of the Provincial Assembly result-oriented and even more effective, it is necessary to review the existing organizational structure and create a new one.<sup>14</sup>

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<sup>14</sup> Province 3, Provincial Assembly Secretariat. 2076. *Pradesh Sabha Darpan*. June 2019 (Issue No 2), P. 2.

The situation in other provincial assemblies was not very different either. Some provincial assemblies had conducted the Organization and Management (O&M) Survey. However, provincial assembly secretariat appointments had not been fulfilled accordingly.<sup>15</sup> The lack of qualified employees created further problems in performing the functions of assemblies.

Once a bill is discussed in the assembly, suggestions and amendments proposed by members must be recorded. In this process, the same bill may be discussed several times. However, provincial assemblies lacked qualified employees to update the bills after each discussion. A majority of employees in provincial assemblies were integrated from groups other than parliamentary service and they lacked prior experience in parliamentary affairs. A member of Gandaki Province, commenting on how a lack of physical infrastructure, skilled employees and technicians impeded the smooth functioning of the provincial assembly, said, “The microphones do not work properly; we cannot understand what is being said. They keep switching off. Employees forget to turn on microphones while the speaker is speaking. And sometimes the national anthem is only played once the session has already started.”

The Federal Parliament deputized officials to assist first sessions of provincial assemblies, including a joint secretary for 15 days, and a under secretary, a section officer, and a technician for one month each. They

had two main responsibilities: to conduct sessions of the provincial assembly, and to train employees from other services on parliamentary affairs. Employees from the Federal Parliament trained other employees about parliamentary affairs and functions. However, frequent transfers of these employees continued to create a lack of trained employees in provincial assemblies. Frequent transfers of employees also affected discussions on various bills. One member of Gandaki Province explained how frequent transfers of personnel affected their work, “Thematic committees have been provided one secretary each. But by the time that committee finishes one meeting and sits for the second meeting, the secretary will have been transferred. New appointees are unaware of what tasks have already been completed. Five different secretaries have already been appointed to the Provincial Affairs Committee of Gandaki Province.” Due to the lack of adequate number of qualified employees, the operation of provincial assemblies was hampered and there were delays in documentation of important activities of provincial assemblies.

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<sup>15</sup> According to the Organization and Management (O&M) survey, 76 employees were needed for the Provincial Assembly of Province 5. The secretariat of Sudurpashchim Province sent a letter to the provincial government demanding more than 100 employees. This number was deemed too large and 46 positions were demanded instead. This was also not approved. The 36 approved positions sent by the federal government were reduced to 26. However, during the course of this research, only 15 employees were available. The O&M survey, which took place in Province 1 under the leadership of a secretary from the Federal Parliament, identified the need for 96 employees. However only 89 positions were approved, out of which only 64 positions were fulfilled.

## 5

### PARTICIPATION IN PROVINCIAL ASSEMBLIES

This section uses the third sessions of five of the seven provinces and the Fourth Session of Province 1 as its basis to compare and assess participation in provincial assemblies. In the beginning, the total number of members present in every meeting and the duration of meetings are compared (See: Table 2; Graph 1 and 2). This is followed by the quantitative description of members present in zero hour, special hour, and discussion on bills. In the end, participation in discussions in assemblies are categorized and compared on basis of the electoral systems, genders, and political parties (See: Graphs 3-11).<sup>16</sup>

In Province 2, the Third Session had not concluded and interrupted after the 50th meeting.<sup>17</sup> Table 2 shows that there were only nine meetings in the Third Session in Bagmati Province. Here the Second (Budget) Session went on for a long time. As it was legally unacceptable to proceed into the next budget session directly from a previous budget session, the Third (Winter) Session was conducted for a short duration. The sessions took place for approximately one month in Bagmati Province and Karnali Province. In other provinces, sessions went on for between three and five months (See: Table 2).

**Table 2: Number of meetings, time spent in meetings, and the duration of sessions in each province**

Province	Number of meetings	Time spent in the meetings*	Duration of the session
1	54**	63 hours 16 minutes	27 May 2019 to 25 September 2019
2	50	***	-
Bagmati	9	18 hours 25 minutes	31 March 2019 to 18 April 2019
Gandaki	16	15 hours 55 minutes	7 January 2019 to 21 April 2019
5	33	32 hours 48 minutes	12 December 2018 to 5 May 2019
Karnali	13	17 hours 32 minutes	27 February 2019 to 10 April 2019
Sudurpashchim	28	24 hours 15 minutes	18 January 2019 to 25 April 2019

\* This does not include the time spent on committee meetings.

\*\* Of the 54 total meetings held during the Fourth Session of Province 1 Assembly, daily bulletins were available for 34 meetings only.

\*\*\* The details of the time spent in each meeting of Province 2 Assembly were not available. In Province 2 the Third Session had not completed at the time of this study.

<sup>16</sup> When comparing such participation, the total numbers of members do not include members of the council of ministers, and the speaker and the deputy speaker of provincial assemblies. During the course of this research the number of speakers, deputy speakers, and members of the council of ministers in Province 1 was seven, 15 in Province 2, nine in Bagmati Province, nine in Province 5, eight in Karnali Province, and 10 in Sudurpashchim Province.

<sup>17</sup> In the fiscal year 2018-19, development and other construction works were conducted through user committees with the direct involvement of agencies of provincial governments. But payments were not released even by the end of the fiscal year.



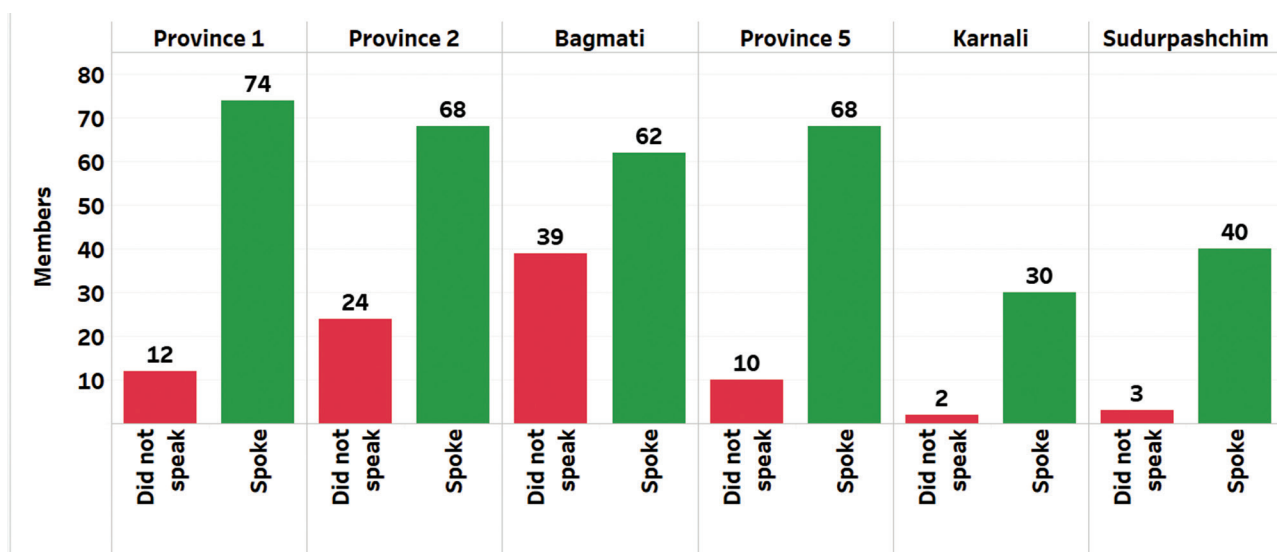
**Table 3: Number of meetings for different discussions in each province**

Province	Number of meetings with zero hour	Number of meetings with special hour	Number of meetings in which bills were discussed
Province 1	24	5	26
Province 2	2	21	23
Bagmati	2	5	8
Gandaki*			
Province 5	6	26	17
Karnali	9	3	11
Sudurpashchim	4	9	13

*\*No bulletin relating to meetings of the Provincial Assembly in Gandaki Province was available.*

There was no uniformity in the parliamentary exercise of zero hour and special hour between provincial assemblies because provincial assemblies had not yet been adequately accustomed to common practices of parliamentary exercises. For example, while Province 1 exercised zero hour relatively more, it was not used as much in Province 2 and Bagmati Province. Table 3 shows that special hour was exercised more frequently in Province 2 and Province 5. As zero hour, special hour, and discussion on bills can take place during the same meeting, the total of all three and total number of discussions in the meetings may be different.

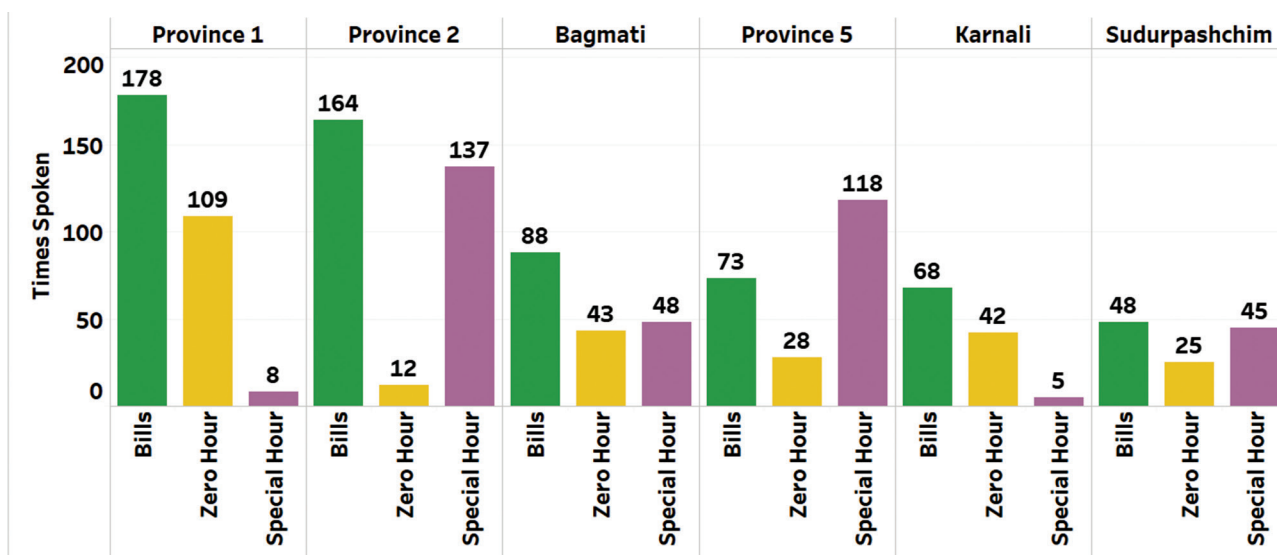
More than 60 percent members in each provincial assembly participated in zero hour, special hour, or discussion on bills in all provinces. Karnali Province had the most number of members who spoke while Bagmati Province had the fewest. On the one hand, Bagmati Province had a high number of assembly members (101), while, on the other hand, it had only nine meetings in the Third Session. Consequently, the rate of participation there was low. Karnali Province had fewest members (32) in comparison to other provinces, which was why they appeared to be participating more (See: Graph 1).



Graph 1: Number of members in each assembly who spoke at least once, and who did not speak at all across different discussions.

Except for Province 5, in all other provinces the rate of participation was higher in discussions on bills than during zero hour or special hour. This was because

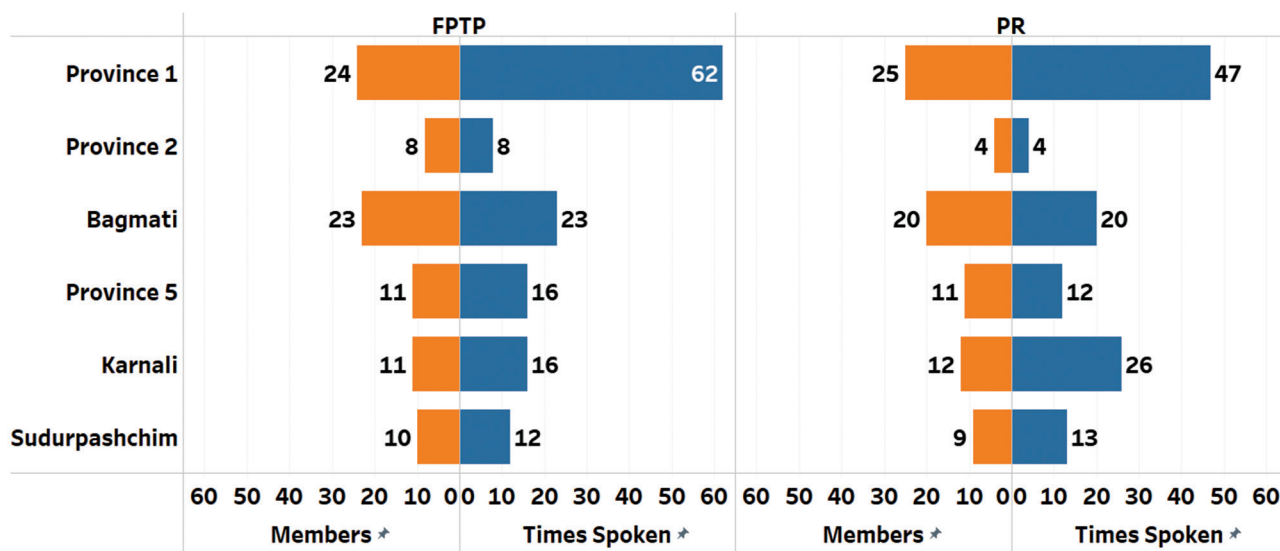
there were relatively more meetings for discussions on bills, while in some meetings more than one bill were discussed (See: Graph 2).



Graph 2: Number of times spoken by members in zero hour, special hour, and discussions on bills.

## 5.1 PARTICIPATION IN ZERO HOUR

### PARTICIPATION IN ZERO HOUR ON THE BASIS OF ELECTORAL SYSTEMS

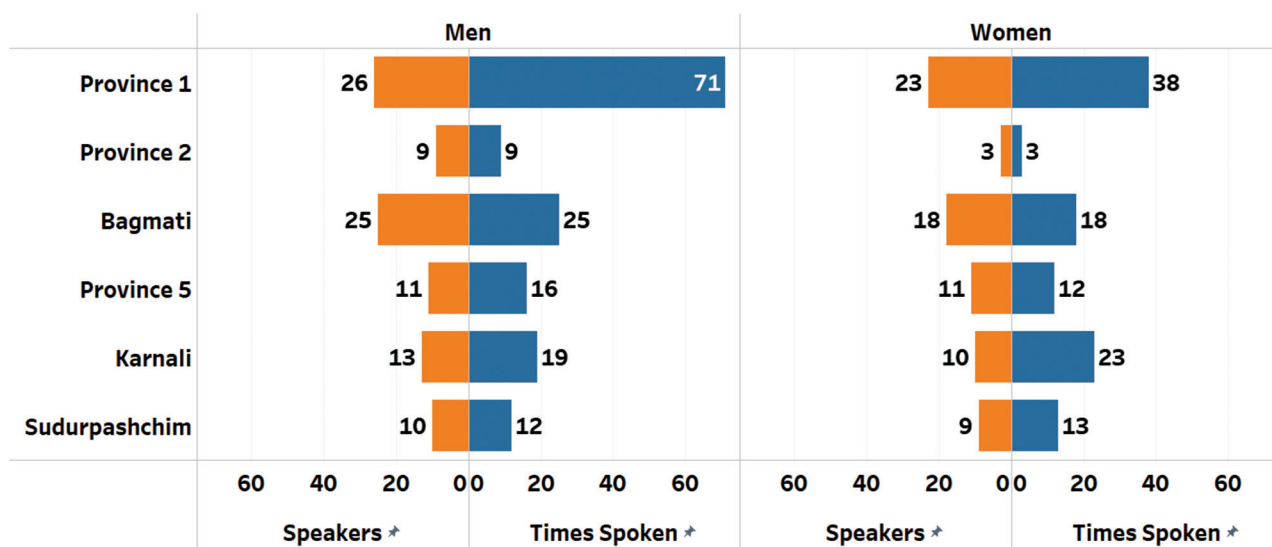


Graph 3: Participation in zero hour on the basis of electoral systems.

In Province 1 the participation of FPTP members was higher, where 24 FPTP members spoke 62 times while 25 PR members spoke only 47 times. Likewise, in Province 5, when 11 FPTP members spoke 16 times, 11 PR members spoke only 12 times. However, in Karnali Province and Sudurpashchim Province the participation of PR members was more than those

from FPTP. In Karnali Province 11 FPTP members spoke 16 times while 12 PR members spoke 26 times. In Sudurpashchim Province, 10 FPTP members spoke 12 times while nine PR members spoke 13 times. In Bagmati Province the participation rates of FPTP and PR members were similar where 23 FPTP members and 20 PR members each spoke once (See: Graph 3).

### PARTICIPATION IN ZERO HOUR ON THE BASIS OF GENDERS



Graph 4: Participation in zero hour on the basis of genders.

The participation of members according to electoral systems and genders was generally uniform across various provinces. For example, in Province 1, over a period when 26 men members had spoken 71 times, 23 women members had spoken only 38 times. Likewise, in Province 5, over a period when 11 men members spoke 16 times, 11 women members spoke 12 times. In Bagmati Province where the rate of participation of FPTP and PR members is similar, the rate of participation along genders also appears to be similar. There, 25 men and 18 women members spoke once each. Likewise, in Karnali Province and Sudurpashchim Province where the rate of participation of PR members was slightly higher than FPTP members, the participation of women members was comparatively higher than that of men members (See: Graph 4).

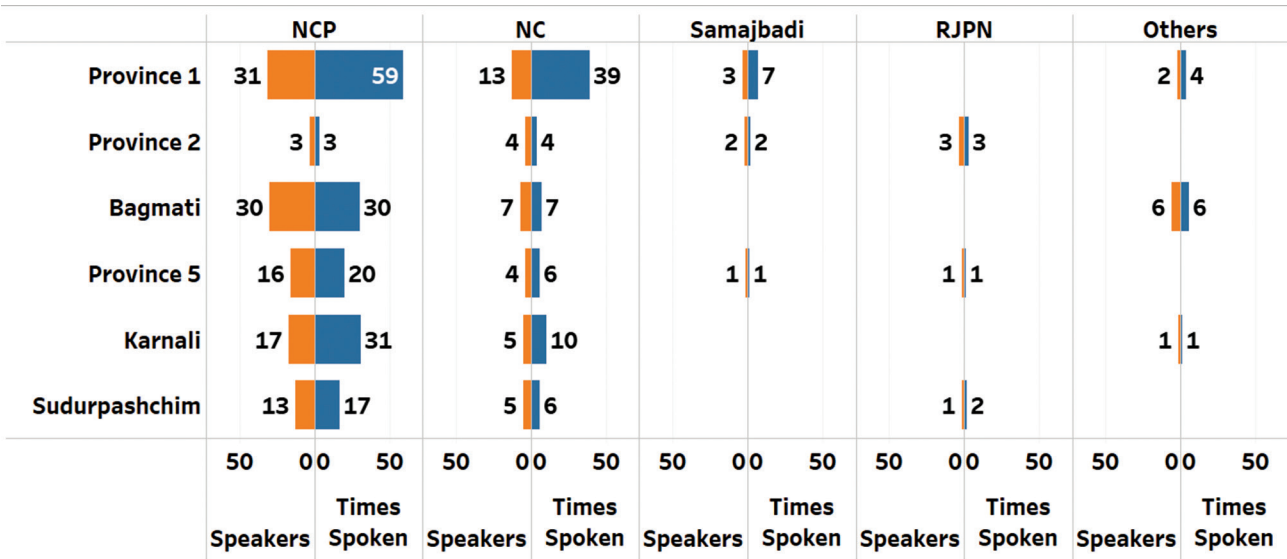
from NCP spoke 20 times. In Bagmati Province and Sudurpashchim Province, the rate of participation of both the ruling NCP and the main opposition NC members was similar (See: Graph 5).

## 5.2 PARTICIPATION IN SPECIAL HOUR

### *PARTICIPATION IN SPECIAL HOUR ON THE BASIS OF ELECTORAL SYSTEMS*

Special hour was exercised by Province 1 five times and three times by Karnali Province. All other provinces exercised special hour more than these two provinces. In Province 2, a total of 38 FPTP members spoke 94 times while 20 PR members participated 43 times. In

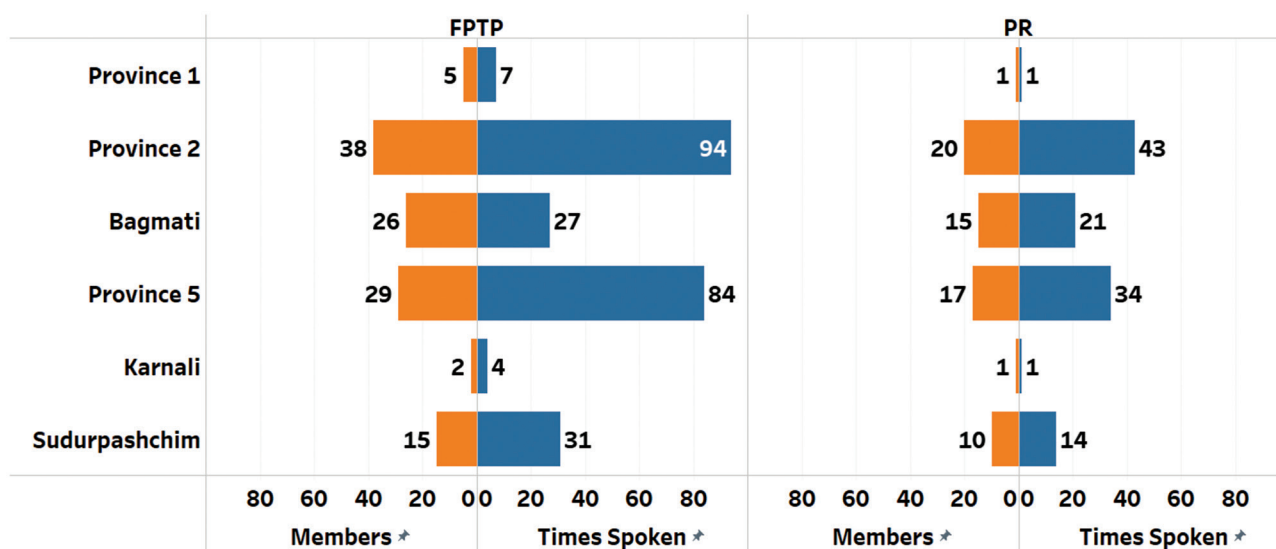
### *PARTICIPATION IN ZERO HOUR ON THE BASIS OF POLITICAL PARTIES*



Graph 5: Participation in zero hour on the basis of political parties.

In Province 1 and Province 5 members of the main opposition party NC participated more frequently in zero hour discussions than the ruling NCP. In Province 1, a member of NC spoke an average of three times, with 13 members speaking 39 times, while 31 members of NCP spoke a total of 59 times. Likewise, in Province 5, four members of NC spoke six times while 16 members

Sudurpashchim Province, 15 FPTP members spoke 31 times while 10 PR members spoke 14 times. However, in Bagmati Province, while 15 PR members spoke 21 times, 26 FPTP members spoke 27 times. More FPTP members participated in discussions during special hour than did PR members in every provincial assembly except Bagmati Province (See: Graph 6).

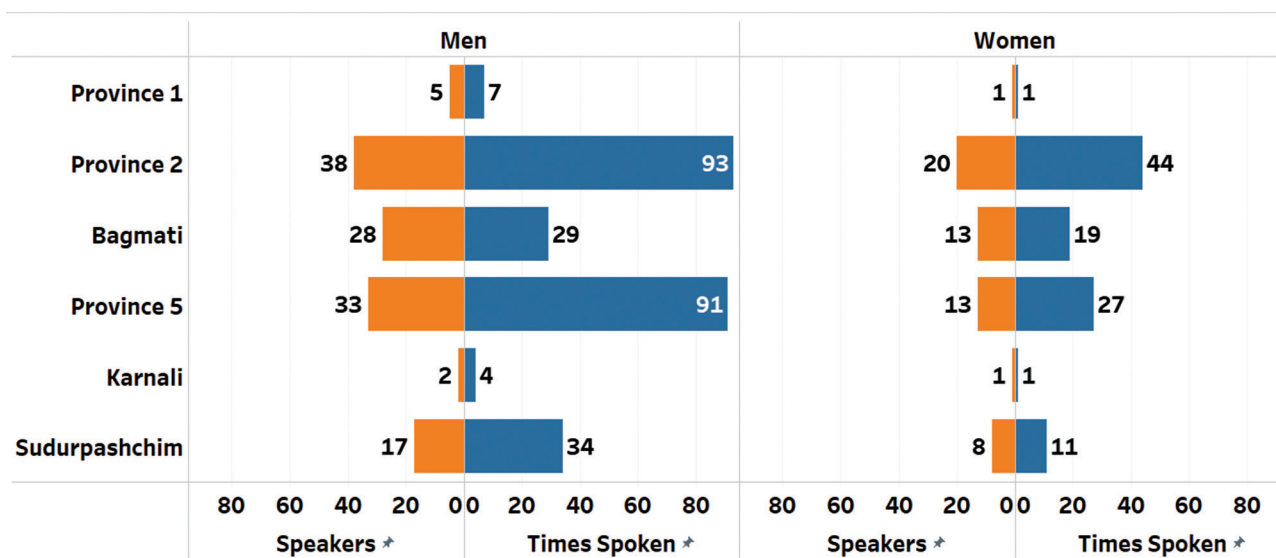


Graph 6: Participation in special hour on the basis of electoral systems.

In each province except Province 5, the parliamentary party decided which member could speak for what duration.<sup>18</sup> Members in leadership positions such as leaders of the parliamentary parties, chief whips and

whips got more opportunities to speak during these discussions. These members were mostly elected from the FPTP system. This may have been the reason behind higher rate of participation of FPTP members.

#### PARTICIPATION IN SPECIAL HOUR ON THE BASIS OF GENDERS



Graph 7: Participation in special hour on the basis of genders.

<sup>18</sup> In Province 5, parliamentary parties do not decide which member speaks during the special hour.

Like in zero hour there was similarity in rates of participation on the basis of genders and electoral systems during special hour in various provinces. When 38 men members of Province 2 had spoken 93 times, 20 women members had spoken 44 times. In Province 5, when 33 men members spoke 91 times, 13 women members spoke 26 times. In Sudurpashchim Province, 17 men members spoke 34 times while eight women members spoke 11 times. In the Bagmati Province 13 women members spoke a total of 19 times while 28 men members each spoke once. There was a higher rate of participation by men members during special hour in all provinces except for Bagmati Province (See: Graph 7).

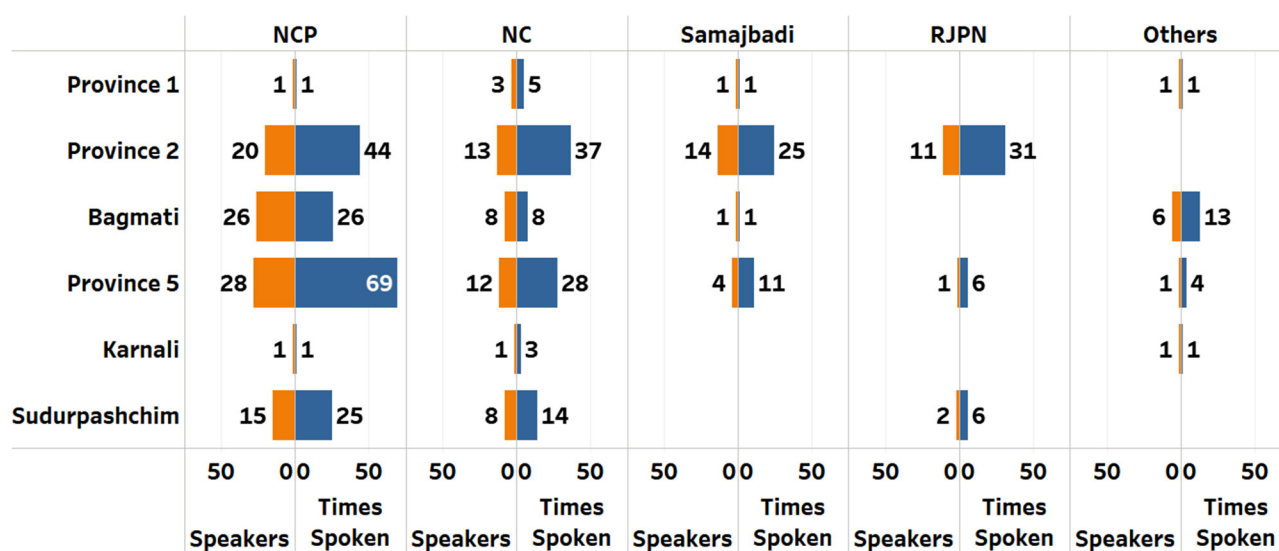
In Bagmati Province, Province 5 and Sudurpashchim Province, rates of participation of members from the ruling NCP and the main opposition NC were almost equal (See: Graph 8).

### 5.3 PARTICIPATION IN DISCUSSION ON BILLS

#### *PARTICIPATION IN DISCUSSION ON BILLS ON THE BASIS OF ELECTORAL SYSTEMS*

Except for Bagmati Province, in all other provincial assemblies PR members and FPTP members participated

#### *PARTICIPATION IN SPECIAL HOUR ON THE BASIS OF POLITICAL PARTIES*

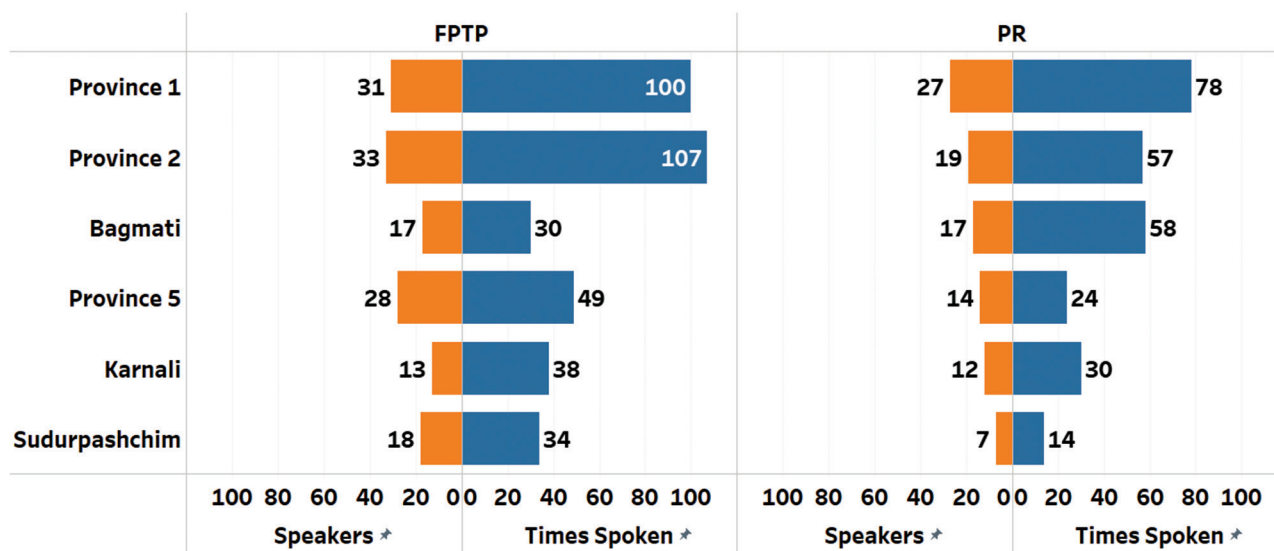


Graph 8: Participation in special hour on the basis of political parties.

In Province 2, which exercised special hour more frequently than others, of the four major parties, members from NC participated most frequently while SPN, which leads the coalition government, participated the least. 13 members of NC spoke 37 times while 12 members of SPN spoke 23 times. 11 members of RJPN, another party in government, spoke 31 times while 20 members of the largest party NCP spoke 44 times.

almost equally in discussions on bills. For example, 33 FPTP members in Province 2 spoke 107 times while 19 PR members spoke 57 times. When 28 FPTP members in Province 5 spoke 49 times, 14 PR members spoke 24 times. In Sudurpashchim Province 18 FPTP members spoke 34 times and seven PR members spoke 14 times. In Bagmati Province the rate of participation of PR members on discussions on bills was much more than

that of FPTP members with 17 FPTP members speaking 30 times and 17 PR members speaking 58 times (See: Graph 9).



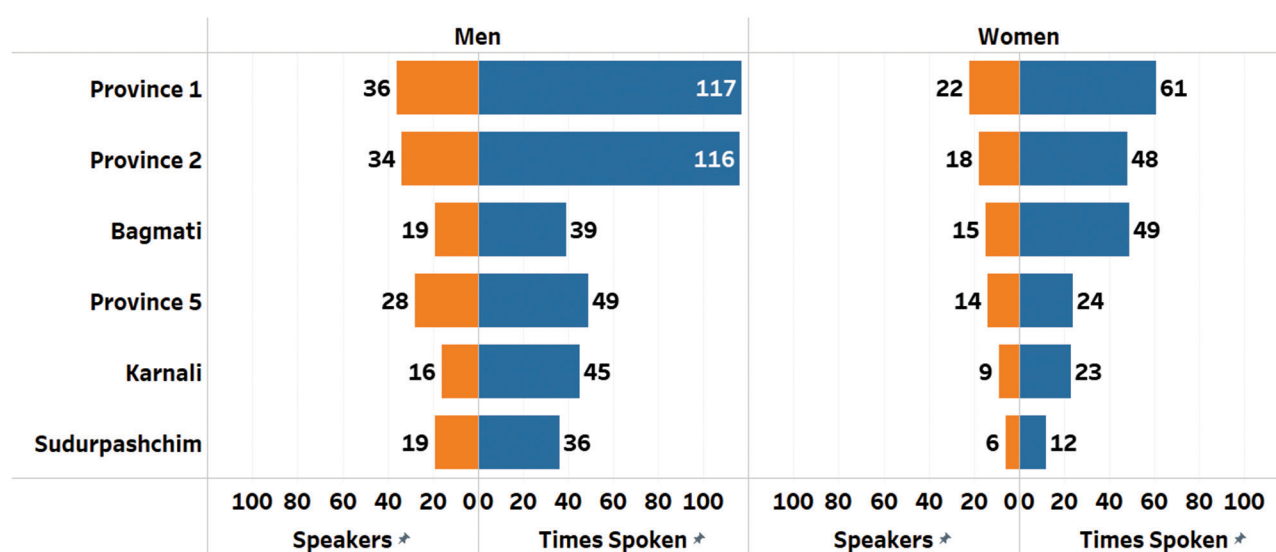
Graph 9: Participation in discussion on bills on the basis of electoral systems.

In Province 1 and Province 2, participation rates of men members in discussions on bills were more than that of women members. For example, 36 men members of Province 1 spoke 117 times while 22 women members spoke only 61 times. In Karnali Province, the rate of participation of men members was slightly higher than that of women members, with 16 men members speaking 45 times and nine women members speaking 23 times. In Province 5 and Sudurpashchim Province, there was not much of a difference between the rates of

participation by men members and women members. While 28 men members of Province 5 spoke 49 times, 14 women members spoke 24 times. Likewise, in Sudurpashchim Province, 19 men members spoke 36 times and six women members spoke 12 times. However, in Bagmati Province, the participation rate of women members was higher than that of men members, with 15 women members speaking 49 times versus 19 men members speaking only 39 times (See: Graph 10).



## PARTICIPATION IN DISCUSSIONS ON BILLS ON THE BASIS OF GENDERS

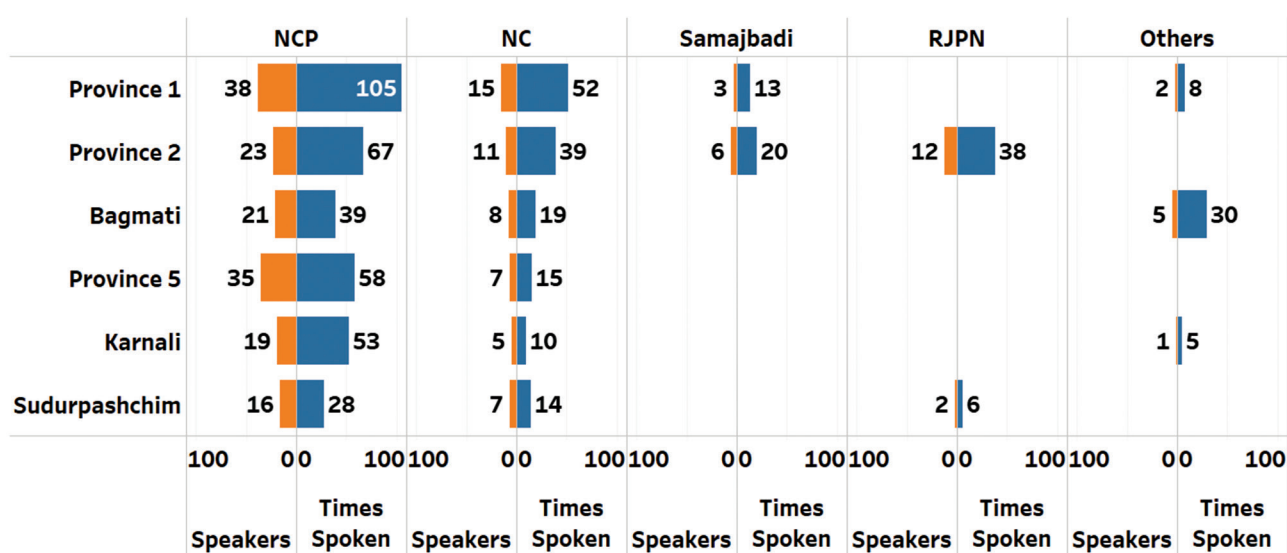


Graph 10: Participation in discussions on bills on the basis of genders.

## PARTICIPATION IN DISCUSSIONS ON BILLS ON THE BASIS OF POLITICAL PARTIES

Participation of members from the main opposition NC was the highest during discussions on bills in Province 1, Bagmati Province, Province 5, and Sudurpashchim Province. In Karnali Province, the rate of participation

of members from the ruling NCP was the highest, with 19 NCP members speaking 53 times, while five members from NC spoke 10 times. In Province 2, participation rates of the four major parties were similar (See: Graph 11).



Graph 11: Participation in discussions on bills on the basis of political parties.



#### 5.4 ASPECTS OF PARTICIPATION IN PROVINCIAL ASSEMBLIES

Assembly members and secretariat officials told DRCN that the experience of provincial assembly members, their previous parliamentary experience, topical knowledge, interests, and confidence determined the rate and quality of their participation. Members participating in parliamentary exercises for the first time had difficulty speaking due to their lack of understanding of the processes. This was the experience of one woman member from Gandaki Province: “I do not have any problem speaking in public. Although I have worked in various newspapers and radio, this is my first experience in a parliament. Which is why, in the beginning, I was afraid to speak because I did not understand the parliamentary process.” It was difficult for provincial assembly members to enter into their subject and speak. Members would change subjects midway during their speech. One member in Province 1 said, “Especially during discussions on bills, some members would raise issues in detailed discussions when they should have been brought up during discussions on principles, and some issues were raised in discussion on principles which should have come during detailed discussions.” The same experience was also expressed by members from other provinces. Some members had been very active during the initial phase. There were also examples of how members had been discouraged by their own parties from speaking simply because they had previously made minor mistakes. According to one member of Gandaki Province, a member of the ruling party asked for NPR 100 to be deducted from the budget as a sign of protest which in reality should have been done by members of the main opposition. Another women member of NC was discouraged from speaking after being told that her speeches had been meaningless. DRCN was told that these two members who had actively participated in the initial phase had been participating less frequently in the assembly thereafter.

Many members lacked prior experience of parliamentary practice. Neither provincial assemblies nor concerned political parties had provided appropriate trainings in parliamentary practices to members. A member of Province 2 said, “Our party has not made any attempt to teach us parliamentary practices. It would have been good if they had taught us how to speak, about subject matters and parliamentary processes. Parliamentary parties could have met prior to participating in the assembly; we could have practiced preparing for the subject matter as well. But no interest was given to this either.” However, political parties claimed that they had given priority during speaking hours to members who had spoken less frequently. Although there were not many training opportunities, members were progressing through practice and experience. Members spoke of how it had been difficult to speak in the assembly during the initial phase but how they had been able to understand parliamentary processes over two years, and had improved their ability to speak as well.

Language was another factor which discouraged members from speaking in provincial assemblies. Provincial assembly regulations do not bar members from speaking in any language in assemblies. However, a majority of the members used Nepali while speaking in their assemblies. There was also a considerable number of members who spoke in their own languages other than Nepali. For example, in Province 5 and Sudurpashchim Province, there were members who spoke in Awadhi and Tharu respectively. It was more difficult for women members who had a different mother language from Nepali to speak in Nepali than for men members who had the same mother language. In Province 2, however, an NCP member spoke of how their party encouraged them all to speak in Nepali as much as possible. Due to this, an NCP member who did not speak Nepali had not spoken even once.

In Province 2 women members complained of how leaders of the parliamentary parties and chief whips prevented them from speaking during discussions on important issues. They alleged that if the issues were

likely to be covered by the media, party leaders or chief whips themselves were more eager to speak. This allegation was heard in other provinces as well.

### Case Study 1: Linguistic Hurdles in Assemblies

Jhoba BK, elected to the Provincial Assembly under the PR system from Mugu in Karnali Province did not speak even once in the first session. The reason why she did not participate in discussions was because she was not proficient in speaking Nepali. Her mother language is Lama Kham. Other members of the Provincial Assembly encouraged her to speak and she slowly started participating in discussions. Now she actively participates in discussions. Speaking of how she spoke 12 times during the Fourth Session, she said, “Many speak and understand Nepali in our assembly. If I speak in my language many do not understand what I am saying. Although it is difficult to express myself in Nepali, I have to use it to present the problems of my constituency.” In Province 5, the mother language of one Madheshi member is Awadhi. Although she wanted to speak a lot in the assembly she had only spoken twice. “I am afraid to speak in Nepali,” she said. Another assembly member of Province 5 who had never before spoken in the assembly spoke once in Awadhi, her mother language.

In most provinces, members elected through FPTP system were more active in discussions in comparison to members elected through PR (See: Graphs 3, 6 and 9). Assembly members have also been allocated funds to spend on infrastructure development under various titles, just like members of the Federal Parliament are allocated CDF. FPTP members have a bigger role in spending that fund. Both FPTP and PR members stated that such funds allowed FPTP members to get closer to citizens. It was also stated that as citizens informed

FPTP members more about issues of their concern than they did to PR members, FPTP members generally had higher rates of participation in the assembly.

Many members from the ruling party were unable to openly express their opinion on some issues in the assembly. Assembly members from NCP said that they were unable to participate in discussions freely due to party control. District-level and province-level committees of political parties did not encourage their members to speak about their constituencies. Although district-level and province-level committees of political parties were not very interested in assembly discussions, high-level leaders from the province and center wielded major influence on issues such as choosing a permanent name for the province and designating its capital. The intervention by NCP and NC in the process of choosing the name and designating the capital of Province 3 is a significant example.<sup>19</sup> There were examples where candidates from NCP had been warned against ‘speaking loudly and assisting the opposition’ when they spoke freely and opposed the government. They were told to express their dissatisfaction in parliamentary party meetings rather than in the assembly. One provincial member from NCP said, “Whether overtly or not, the party’s whip is implemented. Criticizing the government in the assembly is like chewing through an iron bar.” Across all provinces, members from the ruling party were found to have requested members from the opposition party to raise such issues in the assembly which they were not themselves in a position to. On the contrary, members from smaller parties said that they were able to participate in discussions without facing party control.

There was widespread complaint that the government seemed in no hurry to address issues raised by members. Members said that they lost interest in speaking when the issues raised for amendment in bills were not addressed. One woman member claimed that there were

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<sup>19</sup> Online Khabar. 2076. Bish Piuki Party Chhodau. Available at <https://onlinekhabar.com/2020/01/827023>; accessed January 24, 2020.

more men members who spoke less, and said nothing would change by speaking in the assembly. Except for Province 2, in all other provinces NCP was either in the majority or had two-thirds of the seats. Some NCP members said that they did not speak because when members from NCP spoke, the same issue would be repeated, and that others would speak about what they wanted to say.

The main responsibility of the assembly is to enact laws. However, the chief whip and whips of political parties in provinces said that very few members seemed enthusiastic about speaking during discussion on bills as compared to during zero hour and special hour. According to provincial assembly secretariat officials and chief whips of various political parties, only certain members participated frequently in discussions on bills. Hard work and preparation was necessary to participate in the discussion on bills. A detailed study of the bill was necessary. Members said that they did not have enough time to study bills. There were various reasons why members did not get enough time to study bills: being occupied by development works and peoples' needs in constituencies, time taken to travel daily between their home districts and province capitals, household chores for women members. However, some members said that as the main task of a provincial assembly member was to enact laws, they should not make excuses or shy

away from their main responsibility but should accept this and participate actively in discussion on bills.

Members said that whether they spoke on the subject or not also depended on their interests. According to a member of Province 1, more members from Madhesh would participate in discussions on bills about irrigation while members from the hills and mountains were more interested in bills relating to tourism. This was similar to what one member from Gandaki Province experienced. The member said, "It depends on my interest whether to participate in bills or not. I do not know anything if there is a discussion on bills for agriculture, and neither am I interested in that. I am more active when there are bills on workers' rights." One member who comes from a party with only one member in a provincial assembly said that due to a lack of knowledge about bills other than important ones they were unable to participate in discussions or register amendments. Members also complained that the amendments they had proposed were neither given any importance nor adopted.

Although there was no uniformity among rates of participation of members in provincial assemblies, members were beginning to understand parliamentary processes and were also speaking more frequently. This also increased their self-confidence. Rates and quality of participation in latter sessions were comparatively better than in first sessions.

## 6

### LAW MAKING IN PROVINCES

Provincial assemblies were enacting laws as per their legislative roles. Taking the first year as law enactment year, provincial assemblies passed laws related to the operation of various agencies. In the initial phase, provincial governments drafted bills based on model laws issued by the federal government. In more recent times, despite facing a shortage of employees, the ministries of provincial governments had begun attempts to draft bills as per the needs of provinces.

Provincial governments were not able to determine their priorities to pass laws as per necessities of their provinces. Draft bills had not been able to reflect sentiments and needs of provinces. For example, the *Act Relating to Legal Provisions on Decoration, Recommendation, Honour and Medal 2019* brought by Bagmati Province Government and the *Act Relating to the Protection and Management of Bar, Pipal, Sami and Chautari 2018* was felt to be unnecessary. A ruling-party Provincial Assembly member of Gandaki Province said, “The bill made for the protection of *bar*, *pipal*, *sami* and *chautari* was not needed. Its main provision could have been addressed by incorporating it into one of the sections of the Forest Act.” Although Province 2 had passed the *Act Relating to the Management of Provincial Police Service 2018* it could not be implemented. Opposition party members were of the opinion that by enacting the Police Act which cannot be implemented, the provincial government was seeking unnecessary conflict with the federal government and increasing mutual suspicion. Dalit members of Province 1 assembly had requested the provincial government to table a bill related to the empowerment of Dalit

communities. But, according to an assembly member, the government did not show any interest.

Provincial governments could not introduce necessary bills due to the lack of federal laws, while assemblies were also not meeting regularly due to the lack of business. Respondents said that provincial governments could not bring adequate bills to the assembly due to the lack of qualified employees and frequent transfers of employees. Since provincial laws which conflicted with federal laws would be annulled, laws that were important for the functioning of provincial governments were not being introduced before the assembly. Provincial governments were hesitant about drafting bills related to issues under shared jurisdictions between federal, provincial, and local governments. Members across all provincial assemblies accepted that, consequently, the legislative functions of provincial assemblies were yet to be effective.

As thematic committees were not formed in the initial phase, debates on the rationale, and clause-by-clause discussions on bills could take place only in the assembly meeting. However, it was found that after the formation of committees, detailed discussion on bills mostly took place in the committees. Attempts had been made to collect expert suggestions on bills through discussions. Members complained that government officials wanted to avoid amendments in bills to address needs of the province, stating it would contradict the Constitution and federal laws. For example, some members complained that they were prevented from making amendments to provisions on the appointment of members for the Provincial

Civil Service Commission inclusive, stating that this would contradict the Constitution and federal laws. Members from the ruling party said that although they protested against sections of bills with which they were discontented, they were unable to make amendments due to party pressure.

Most of the bills in provincial assemblies were passed by consensus. Main opposition parties assisted in attempting to pass bills through consensus to prevent the wrong message about federalism from reaching the citizens and creating controversy. In the initial phase, as bills on the operation of provinces were passed, there was not much disagreement between political parties. In the latter phase, opposition parties strongly protested against some bills. In Province 1, opposition members surrounded the rostrum for the first time when the *Bill Relating to the Management of the Manamohan Technical University 2019* was presented. However, the bill was passed amidst protests. The opposition strongly protested this law stating that the provincial government was using the Manmohan Technical University as a recruitment center for NCP workers. In Province 2, the opposition party protested against bills related to the formation of the Madrasa Education Board and recruitment of employees on contract. In Province 2, the main opposition NCP strongly protested against the *Bill Relating to the Recruitment of Employees on Contractual Basis for Public Administration of Province 2 2018* which would have allowed the chief attorney

to chair the committee to recommend the recruitment of employees. The government's attempt to present the bill with the objective of addressing the interest of the Office of the Chief Attorney had created controversy. Likewise, the *Bill Relating to the Formation of the Madarasa Education Board 2018* did not go forward due to the protest of opposition parties. There was a lot of debate in the assembly on bills on provincial police and civil service commission. Members of Province 2 said that since there was not much of a difference between the number of ruling party members and opposition members, bills would be passed through a general consensus as much as possible. Because of these various reasons, compared to other provinces, fewer laws were enacted in Province 2.

Final decisions on contested bills were made by the main leadership of ruling and opposition parties in an opaque manner. Due to this, there was widespread discontent towards the leadership in all provinces. In Province 1, the *Bill Relating to the Greater Birat Region Development 2018* was presented by the government in assembly. The main opposition NC instructed its members to speak against it, alleging that the intention behind introducing the bill was to influence the decision on the permanent capital of the Province. However, a member of NC said that other members of the party were pressured into passing the bill after the main leadership of NC themselves arrived at an agreement in the end.

## THEMATIC COMMITTEES

In parliamentary practice, various thematic committees are formed with an objective of ensuring swift and efficient functioning of parliaments. Article 193 of the Constitution provides that provincial assemblies may form committees. All provincial assemblies enacted regulations and formed thematic committees accordingly. Besides, provincial assemblies also formed special committees as per their needs. These special committees were temporary in nature, and set up for making decisions through deliberations on particular issues. This section only assesses the functions of provincial thematic committees.

In provincial assembly meetings all the members are present, and a lot of time is spent on procedural formalities. It is therefore not possible to discuss the provisions of bills in minute details there. Moreover, oversight of governments is more efficient through small groups looking after specific ministries rather than all the assembly members being involved in oversight of the entire government. Thematic committees are therefore formed to increase the efficiency of parliamentary functions. Since they perform similar parliamentary tasks, with a smaller number of members, thematic committees are commonly referred to as ‘mini-parliaments’.

### 7.1 FORMATION AND FUNCTIONING OF COMMITTEES

The numbers, names and jurisdictions of thematic committees varied between provinces. In some provinces, committees were formed according to the

ministries while in others the same committee was looking after up to four ministries. Each province had a public accounts committee (PAC). Although the other committees did not have the same names in all provinces, they were functioning with similar names and responsibilities. There were seven committees each in Province 1 and Province 2, six in Province 5, and five in Bagmati Province. Gandaki Province, Karnali Province and Sudurpashchim Province had only four committees each. In Gandaki Province, the Finance and Development Committee was overseeing four ministries. One member from the ruling party there said, “We should have made one committee each for every ministry. That would have made oversight more effective.”

In Gandaki Province, only the Legislation Committee deliberated over bills. However, this practice was not present elsewhere. In Karnali Province there was a Legislation and Provincial Affairs Committee. However, this committee did not look into all of the bills presented before the assembly. Here, other thematic committees would deliberate over bills that came from ministries under their jurisdiction. In Gandaki Province there was a debate over reviewing the jurisdiction of committees because only the Legislation Committee was actively deliberating over bills. The speaker of Bagmati Province said that they did not form the Legislation Committee as bills would go to the committees holding jurisdiction over specific ministries. In Province 5, the Legislation Committee was terminated after a short initial period. The secretary of the Province 5 Assembly said, “We initially had four committees. Later, we amended the *Province 5 Assembly Regulation 2018* and formed six



committees. Earlier, we had the Legislation Committee and all the bills would go there. Later, a decision was made to form committees specific to the ministries.” In Province 1 all bills were initially sent to the Justice, Administration, and Legislation Committee. However, as other committees did not get any business, only bills received from the Internal Affairs and Law Ministry were sent to the Justice, Administration and Legislation Committee while the remaining bills were discussed in concerned committees.

Although the size of a thematic committee reflected the size of its provincial assembly, the number of members in each committee across a provincial assembly was almost the same. For example, in Bagmati Province, the PAC had 21 members while the same committee in Karnali Province had only seven members. Respondents including members of thematic committees said such difference in numbers affected discussions on bills and oversight of provincial governments.

## INCLUSION

Constitutional provisions mandate for provincial assemblies to be inclusive, and the diversity of assemblies was also reflected in the composition of thematic committees to some extent. The chairperson of the committee is a responsible position.<sup>20</sup> Therefore this assessment takes into account various aspects of inclusion among committee chairpersons. In terms of gender inclusiveness, there was no woman member chairing any of the committees in Gandaki Province and Province 2. Of the total 37 committees across seven provinces, there is a Dalit woman member chairing one committee each in Province 5 and Karnali

Province.<sup>21</sup> There was no Dalit man as the chair of a thematic committee. Of the 10 committees chaired by Janajati, two were headed by women. There were six chairpersons from the Madheshi community, while two were Muslim, but all eight of them were men.<sup>22</sup> Of the 14 chairpersons from the Khas Arya community, four were women (See: Annex 1).

Women members in Province 2 were dissatisfied that of the seven committees not a single one had a woman as the chair. One member from RJPN said, “More women got the opportunity as the Constitution ensures 33 percent representation for women. Otherwise it would have been captured by men entirely. We are 37 women in the Provincial Assembly. But because there is no mandatory provision for women to be appointed to the council of ministers, or as chairpersons of thematic committees, or leaders of political parties, or as the chief whip, there is not even one woman member among them. We need a mandatory provision because men are not generous.”

In Province 2, women members of NCP had demanded the post of the chief whip and chairperson of one thematic committee. However, this demand was not addressed. The allegation that the prevalence of patriarchal mindset within the parties was to blame for the lower representation of women in key positions was heard in other provinces as well. Another reason was also because the men in leadership position were interested more in managing other men rather than in taking women forward. The choice of individuals for the chairpersonship of thematic committees, and other key positions, was also affected by the need for internal balance within the parties.

<sup>20</sup> In the parliamentary exercise of Nepal, the chief of the thematic committee is called Chairman – *sabhapati*. However in Karnali Province, this term was considered to be gender-discriminatory and the term ‘Chairperson’ – *adhyaksha* – was used.

<sup>21</sup> Khadka, Sangeeta. 2076. Kinarama Mahila Netritwa. Available at <https://ekantipur.com/opinion/2018/03/19/152426319022108.html>; accessed January 24, 2020.

<sup>22</sup> Four of the six Madheshi chairperson were from Province 2.

In parliamentary practice, the main opposition is usually given the post of the chairperson of the PAC. Following this, NC got the position in all provinces except Province 2 where the position was allocated to NCP. RJM in Gandaki Province and SPN in Province 5 received chairpersonship of one thematic committee each for supporting NCP to form governments. Thematic committees in Province 2 were the most diverse in terms of political parties where NCP, RJPN and NSP headed two committees each while NC got the chairpersonship of one.<sup>23</sup> Of the total 37 committee chairs across all seven provinces, 24 were from NCP, seven from NC, three from SPN, two from RJPN, and one from RJM.

### *ACTIVENESS*

There were many examples of members not giving adequate priorities to committee meetings. One of the reasons for this was that members stayed in the provincial capital only when the assembly was in session and returned to their home districts immediately. Some members who lived nearby provincial capitals commuted daily from home when the assembly was in session. In such situations, committee meetings received less priority from members than assembly meetings. This also resulted in lower attendance in committee meetings. In Province 2, one woman member expressed her suspicion that there were relatively fewer men members in the Women, Children and Social Development Committee because they did not consider the issues of women and children to be important. According to one member of Province 5, committee discussions were given less importance. “On many occasions members said they would sign the minutes later and asked to carry on with the meeting even in their absence,” he said. Such opinions were heard in other provinces as well.

In Gandaki Province, members of council of ministers are also the members of thematic committees, and have voting rights within the committee. The chairperson of Finance and Development Committee there said that the committee activities were adversely affected because ministers were not present regularly in meetings. This challenge was particularly common when decisions within thematic committees required majority voting. In the same Committee, four of the 15 members were ministers. According to the chairperson, there was also a possibility for a conflict of interest as the minister who was supposed to be accountable towards the committee was also a member with voting rights.

In Karnali Province chairpersons of thematic committees had not been chosen yet. Committee meetings were being chaired by the eldest member in each committee. They had taken the oath of office and were enjoying available benefits provided to committee chairs. Respondents said chairs had not been selected because of internal conflicts between two factions of the ruling NCCP. The PAC in Province 2 was also without a chairperson, and was inactive, as of January 2020 (See: Case Study 2).

All thematic committees were not equally active. In Province 1, a member of the Industry and Tourism Committee said that the Committee was almost inactive, and only sat for three meetings after the chairperson was elected. She said the PAC on the other hand was more active in its oversight of the provincial government. Although thematic committees were required to present their annual reports before provincial assemblies, some of the committees had not prepared the report.

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<sup>23</sup> Although the chairpersonship of the Public Accounts Committee (PAC) was given to NCP no chairperson had been nominated.



## Case Study 2: Public Accounts Committee Inactive in the Absence of a Chairperson

In Province 2, NCP received chairpersonship of two thematic committees. Multiple members from the two factions of the party – former UML, and former CPNM – were vying for these two positions. According to a NCP member, a meeting of the parliamentary party held in Dhalkebar Dhanusha, and attended by Province 2 Committee Chairman Prabhu Sah, In-charge Bishwonath Sah and Secretary Suman Pyakurel, decided that the two committee chairpersons would be from former CPNM faction, while the former UML faction would get the positions of chief whip and whip in the provincial assembly. The party accordingly decided on the candidacies of Bharat Sah and Ram Chandra Mandal for Public Accounts Committee (PAC) and Natural Resource and Environment Committee respectively. But during nomination process, another NCP member Shatrughan Mahato also filed candidacy for the chairpersonship of PAC. Mahato's candidacy was proposed by Parash Sah of SPN and seconded by Naresh Yadav of NC.\* Some NCP members alleged that Mr. Mahato was encouraged by some members of NC and SPN into filing nomination wrongfully because they wanted the Committee to remain inactive.

The candidacy of Bharat Sah was proposed by Lagan Prasad Chaudhary and seconded by Ram Kumar Yadav. However, the very next day, Yadav informed the PAC secretariat that he had not supported Sah's candidacy, and that the candidacy was fraudulent. After it appeared that Shatrughan Mahato would be elected, NCP, through the President of SPN Upendra Yadav in Kathmandu, asked the proposer to withdraw his proposal. The election of the chairperson could not take place after that and the Committee was inactive as of January 2020. In the absence of the PAC, a special committee was chaired by the speaker to investigate into transactions for works conducted through user committees in the last fiscal year by various agencies of the provincial government. A member of RJPN said, "If we had an active PAC, it would have been doing the investigation."

*\*Singh, Santosh. 2075. Lekha Samitima Nekapakai Bagee. Available at <https://ekantipur.com/pradesh-2/2019/02/16/155028877902451323.html>; accessed January 24, 2020.*

## 7.2 COMMITTEE ACTIVITIES

The main function of thematic committees is to ensure adequate deliberation on bills and provide oversight of the provincial government. This section evaluates the effectiveness of thematic committees in carrying out their designated roles.

### LAW MAKING

Once the bill introduced before the assembly, discussion on the rationale of the bill takes place, after which, in most circumstances, the bill is sent to the relevant thematic committee for detailed discussions. DRCN was informed that as committee meetings were less

formal than the assembly, and had fewer members, the discussions were more effective. According to a ruling-party member of the Legislation Committee of Gandaki Province, some bills were passed without any discussion, but when those bills were presented in the assembly there was a lot of noise and theatrics around them. His indication was that in assembly meetings, members spoke along their party lines, whereas the discussions in committees were generally free of such political biases. Members from the ruling party were uncomfortable speaking against bills presented by the government and could do so more comfortably in committee meetings. As members could openly participate in the detailed discussions on bills without the pressure from political parties in general, the

committees appeared to have played a generally positive role.

Thematic committees have major roles in ensuring detailed discussions on bills. In the initial phase, some bills were passed hastily, while some other were not even sent to committees and passed through a fast-track process. However, in recent times, more time was spent in discussing bills. Some committees also consulted and interacted with relevant stakeholders during clause-by-clause discussions on some specific bills.

The provincial assembly passes Acts, on the basis of which the government and ministries make regulations, procedures, and directives, which together are known as delegated legislation. The committee must take care to ensure that such delegated legislations do not contradict the Act, and must continuously monitor against such possibilities. Under the National Assembly of the Federal Parliament, there is a Delegated Legislation and Government Assurance Committee which concerns itself with the assurances given by the government, its progress and implementation. In the provinces, however, no consideration was given to this aspect. Contrary to the legal provision, there were examples of delegated legislations enacted even in absence of Acts passed by provincial assemblies.<sup>24</sup> The chairperson of the Natural Resource and Infrastructure Development Committee of Province 1 said that their Committee had opened up an investigation, suspecting that delegated legislations contradicted the essence of Acts enacted by provincial assemblies. In Gandaki Province the Legislation Committee attempted to study the implementation of laws passed by the Provincial Assembly, but according to a member of the Committee, the provincial government did not allocate any funds for that work.

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<sup>24</sup> Mahatara, Navraj. 2076. Bidhayika Chhaldai Jathabhavi Nirdeshika ra Mapdanda. Available at <https://karnalipatra.com/4841/12/2019>; accessed January 19, 2020.

## OVERSIGHT

There were multiple examples of thematic committees monitoring and investigating, preparing reports, and providing instructions and recommendations to provincial governments on various matters. As Public Accounts Committees (PAC) were headed by members from main opposition parties, and as their jurisdictions were related to finance, they were more active and talked about. According to its chairperson, the PAC of Gandaki Province investigated into how provincial ministers were using more fuel than allocated. Ministers were subsequently instructed to avoid doing so. In Province 5, the PAC's investigation found that the Provincial Assembly Secretariat had attempted to pay more than prevailing price to purchase new vehicles. The case was since being investigated by the Commission for the Investigation of Abuse of Authority.<sup>25</sup> In Karnali Province a subcommittee of the PAC investigated into allegations of financial irregularities in the inaugural ceremony of the Rara Festival and presented a report as well as recommended action.<sup>26</sup>

In Province 5, the PAC investigated into the Social Development Ministry's purchase of laboratory equipment, X-ray machine and ultrasound machine after receiving complaints regarding irregularities. Likewise, the Committee also investigated into irregularities in the distribution of agricultural grants by the Ministry of Agriculture, Cooperatives and Land Reform.<sup>27</sup> However, the Agriculture and Cooperatives Committee conducted its own investigation, stating that it was responsible for the Ministry of Agriculture, Cooperatives and Land Reform. The Social Development Committee also began investigating into the purchase of medical

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<sup>25</sup> Online Khabar. 2076. Pradesh 5 Gadi Kharid Prakaran Akhtiyarko Anusandhanma. Available at <https://www.onlinekhabar.com/2019/03/752669>; accessed January 19, 2020.

<sup>26</sup> Public Accounts Committee Report 2075/76 Karnali Province.

<sup>27</sup> Public Accounts Committee report 2075/76 Province 5.

equipment after the PAC began its investigation. Such dual investigations happened due to confusion over jurisdictions. There were also allegations that committees were active in investigation but not interested in publishing reports.<sup>28</sup>

### *INTERACTION AND OBSERVATION*

Thematic committees also conducted some information-sharing and interaction programs. The Provincial Affairs Committee of Bagmati Province coordinated with Nepal Law Society and held an interaction program on parliamentary practice and law making process with participation of Committee members and other assembly members on 19 and 20 April, 2018.<sup>29</sup>

In Karnali Province, the Social Development Committee held interactions on the Cooperatives Bill with stakeholders from Surkhet, Jumla, and Rukum West, and collected recommendations. The Finance and Development Committee of Gandaki Province visited the currently closed Gorakhkali Rubber Industry and presented its recommendations to the government on how it could be revived.

Various thematic committees sent their members for observation visits to other provinces with the objective of exposing the members to activities of destination provinces and drawing lessons from the works of committees there. Committee members said such visits benefited them by showing what tasks had been conducted by other provincial committees, types of bills drafted, challenges encountered, and physical infrastructure available.

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<sup>28</sup> KC, Tejendra. 2076. Anugamanma Samsadiya Samitiko Tachhadmachhad, Prativedan Bujhauna Anakani. Available at <https://ratopati.com/story/104233/2019/10/25/province-5-anuwaman>; accessed January 25, 2020.

<sup>29</sup> Report of the Provincial Affairs Committee 2076, Province 3.

## **7.3 EFFECTIVENESS OF COMMITTEES**

The achievement of thematic committees, despite having limited resources and inadequate experience, cannot be underestimated. Thematic committee and elected members accepted that the functioning of committees were not as effective as they thought possible. In Province 1, a member from an opposition party said, “Many members do not fully understand the jurisdiction of their own committees. There is a lack of topical knowledge and members are not aware of their own roles. The chairpersons themselves are loyal to the chief minister and ministers. Committee meetings get cancelled due to the lack of a quorum. Assembly members from far-off areas say they do not have the time to attend committee meetings.” He also alleged that committee chairpersons were not capable of calling ministers to meetings, and said, “Chairpersons act like rubber stamps of ministers”

Each member of the provincial assembly is a member of at least one thematic committee. Committees were formed by asking members to identify their first, second and third preferences, but adjustments were made to ensure representation on the basis of genders, ethnicities, political parties and geography. Committee members told DRCN that thematic committees were yet to function effectively as they had not been formed as per the expertise and interest of members. According to one member of the ruling party in Gandaki Province, thematic committees were ineffective due to the lack of experts. Thematic committees are tasked with creating policies and providing oversight of government functions. However, they needed to overcome certain challenges to be more effective and uphold the dignity of provincial assemblies. DRCN heard allegations that thematic committees were in the shadow of the ministers and influential political leaders because many committee chairpersons were ranked lower in their party hierarchy. This was seen as the main reason for ministers refusing to attend meetings and not complying with committee’s requests to provide necessary documents on time.

Thematic committees did not give much priority to their responsibility of ensuring that delegated legislations complied with Acts enacted by provincial assemblies. While still facing basic challenges like lack of dedicated office spaces, committees were very weak in using audio-visual resources and archiving. Public Accounts Committees' play crucial roles in making provincial governments fiscally accountable. This committee can give directives to provincial governments on any fiscal

matter. However, members alleged that the directives issued by the committee were not implemented. At the federal level, Financial Comptroller General's Office (FCGO) is responsible for implementing the directives issued by the Public Accounts Committee of the HoR. However, an under-secretary in Bagmati Province said that the FCGO does not recognize the provincial structure.

## 8

# GOVERNMENT ACCOUNTABILITY TOWARDS PROVINCIAL ASSEMBLIES

Provincial assemblies provide oversight of the functions of provincial governments. Government policies and programs are presented before provincial assemblies, and the oversight of the implementation process and expenses of such policies and programs are also conducted by provincial assemblies.

difficult ones. Allegations of ministers not providing answers within the stipulated duration of seven days but choosing to answer all questions in bulk towards the end of sessions were also common. Assembly members, including those from ruling parties, complained that questions raised by members during zero hour and

**Table 4: Number of times answered by member of council of ministers in each province assembly**

Minister who answered	Province 1	Province 2	Bagmati	Province 5	Karnali	Sudurpashchim
Chief Minister	0	2	1	1	0	0
Internal Affairs and Law Minister	4	3	0	3	0	0
Land Management, Agriculture and Cooperatives Minister	0	1	1	0	0	1
Social Development Minister	2	0	0	2	0	1
Economic Affairs and Planning Minister	1	1	1	0	0	0
Industries, Tourism, Forest and Environment Minister	0	0	0	3	0	0
Physical Infrastructure Development Minister	0	0	0	2	0	1
<b>Total number of times answered</b>	<b>7</b>	<b>7</b>	<b>3</b>	<b>11</b>	<b>0</b>	<b>3</b>

It is a part of parliamentary exercise for the concerned minister to address questions and issues raised by provincial assembly members. Provincial assembly regulations of all provinces provide that ministers must answer questions raised in provincial assemblies within seven days. However, members of opposition parties across provinces alleged that ministers only selectively answered simpler questions but evaded the

special hour were answered by ministers from different ministries. One provincial assembly speaker accepted that the provincial government was not accountable towards the assembly. "It is true that the provincial government is not accountable towards the assembly. Ministers are more interested in inaugurating and laying foundations for infrastructure projects than giving time

to answer questions raised by assembly members,” he said.

The data presented in Table 4 are based on bulletins issued of the third sessions of Province 2, Bagmati Province, Province 5, Karnali Province, and Sudurpashchim Province, and the Fourth Session of Province 1. According to the bulletins obtained by DRCN, questions raised in the provincial assemblies were most frequently answered by the Province 5 government (11 times), while Karnali Province government did not answer even once. In Province 5, the speaker constantly reminded the government to address the issues within seven days with ministers providing answers on time, while in Sudurpashchim Province questions were only answered after two and a half months, during the 17th meeting.

Although the facts presented in Table 4 are based on bulletins of session, assembly members shared their experience from all sessions. According to a member of Province 5 Assembly, ministers did not take the thematic committees’ questions and requests for clarifications seriously, did not appear before assemblies within seven days as required, and only made themselves available when it was convenient. Some ministers sent their secretaries to attend committee meetings. There were accusations that in Gandaki Province an official was sent to a meeting when the minister had been summoned. However, the Internal Affairs and Law Minister of Gandaki Province said, “Either ministers or secretaries attend committee meetings when called. They might have missed some meetings because of lack of time. Sometimes it is better if questions are answered by officials because they have a better knowledge on some specific topics than the ministers.”

Members of thematic committees alleged that documents were not made easily available and that they had to be requisitioned repeatedly. There were examples of how a committee had had to send letters three times to ask for one document. According to the Public Accounts Committee chairperson of Sudurpashchim Province, necessary documents were not made easily available

and that they had to be requisitioned repeatedly. The chairperson of Provincial Affairs Committee in Gandaki Province also said that it was difficult to obtain required answers and documents while the chairperson of the Finance and Development Committee of the same province shared that there were indications of reluctance when implementing the directives and recommendations made by the Committee.

In Karnali Province, representatives of the government came and provided answers in committee meetings when called. However, they did not show the same enthusiasm in implementing the directives of the committees. The PAC had investigated into alleged illegal transfer of large amounts from the annual budget. According to the chairperson of the Committee, investigations revealed that the government had made transfers exceeding the given limit. Ministries do not have the authority to use their executive power to increase or decrease the budget passed by the sovereign provincial assemblies except when it is designated by an Act. Likewise, the Committee investigated into financial irregularities of the Karnali Rara Tourism Year 2018, and presented a report with recommendations for the government to implement. However, the government did not make any of this public. After receiving the report of the Committee, the government should have either sent the matter of irregularity to be investigated by the concerned agency of the state or formed its own committee with authority to take the action forward. Under the chapter on ‘status of implementation of directives given to the government’, PAC’s annual report in Karnali Province states:

It was felt that the government was not accountable and responsible towards the assembly and committees. Complete answers to details asked by the Committee were not made available on time. This is also verified by the fact that the directive given to the government with regard to Karnali Rara Tourism Inaugural Program was not taken seriously by the government. As it has been found that the directives issued by the Committee during various



occasions were not completely implemented, we request for the immediate implementation of the directives. It was also seen necessary for the Assembly to direct the government to become serious towards the directives issued by the Committee.<sup>30</sup>

According to one official of the Provincial Assembly Secretariat of Province 5, some directives issued by the committees to the ministries were implemented while others were not. He also said that the thematic committees regularly pointed out directives that were not implemented. The chairperson of the Natural Resource and Infrastructure Development Committee of Province 1 said that the directive given by the Committee to the government to stop the registration of new vehicles in Jhapa, Morang, Sunsari, and Udayapur due to traffic congestion had been implemented. According to the chairperson of the Finance and Development Committee of Gandaki Province, many of the directives given to the ministries were implemented while some work remained. He said, “We had suggested to not put the budget in bulk. However, this could not be done. There might be other pressures as well. We did not see any special concern towards our suggestion. However, in agricultural grants they have reformed the policy program after our suggestion.”

According to the report (Fiscal Year 2018-19) published by the Provincial Affairs and Law Committee of Province 5, of the eight directives issued to the government by the Committee, only two remain to be implemented.<sup>31</sup> According to the report of the Finance and Development Committee of Gandaki Province, of the 11 decisions and directives, three were not implemented, five partially implemented, and three fully implemented.<sup>32</sup>

While providing answers in provincial assemblies, ministers had given various assurances and made commitments. It was the responsibility of thematic committees to check whether such assurances and commitments had been implemented, and to issue directives if they had failed to do so. However, this had received limited interest. The assurances and commitments given by the ministers in provincial assemblies and thematic committees needed to be documented, and the ministers were required to inform that to their ministries. But the failure to practice these provisions resulted in such commitments and assurances being futile.<sup>33</sup>

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<sup>30</sup> Public Accounts Committee Report. 2075-76. Karnali Province.

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<sup>31</sup> Annual Report of Provincial Affairs and Law Committee / 2075/76, Province 5, P. 14.

<sup>32</sup> Annual Report of the Finance and Development Committee / 2075/76 Gandaki Province, P. 13.

<sup>33</sup> Mahatara, Navraj. 2076. Directives and Codes bypassing Legislative. Available at <https://karnalipatra.com/4841/12/2019>; accessed January 10, 2020.

## CONCLUSION

Provincial assemblies started as completely new structures but made considerable progress within the first two years of their formation. Their early functioning was affected by a lack of employees, frequent transfers of available employees, inadequate physical infrastructure, limited access to information technology, and lack of prior experience. Absence of framework laws at the federal level prevented provincial assemblies from enacting important laws. Despite these weaknesses, provincial assemblies were active in enacting laws. Provincial assemblies were also partially successful in their oversight of provincial governments through various committees to ensure accountability.

In a parliamentary system, the government needs the confidence of, and is accountable to, the parliament. NCP had outright majority in six of the seven provinces. The domination of one party was positive for the stability of governments, but it also resulted in overreach and lack of accountability of governments towards provincial assemblies. Ministers were not regularly present to address questions and concerns raised during assembly meetings. They also did not adequately cooperate with thematic committees and were reluctant in providing documents requested by committees. Effective oversight is possible only when the government provides adequate information to the assembly and makes its activities transparent. Parliamentary committees were partially successful in investigating and making irregularities of provincial governments public, but they were ineffective in enforcing directives and recommendations.

*The Constitution of Nepal* ensures inclusive representation of members from different social groups in various positions in governance through proportional representation. This has resulted in representation in provincial assemblies of individuals belonging to marginalized social groups and classes, possessing little or no prior parliamentary experience. The social, gender, regional, ethnic and class diversity among members in provincial assemblies was not fully reflected in the composition of their thematic committees. Most committees were led by men belonging to dominant social groups.

Some provincial assembly members were new and inexperienced in exercising political leadership. Therefore, the rate of participation of such members in assembly sessions appeared lower compared to assembly members who had long years of experience in political leadership. Many such new leaders received opportunities to participate in assembly discussions. But political parties represented in provincial assemblies did not play a constructive role in familiarizing such members with the topics being discussed in assemblies, an omission which affected rates of participation in the sessions by less experienced ones.

Many members participated only in discussing bills which were of personal interest to them. There were very few efforts by parliamentary parties to organize briefings to familiarize their members on diverse subject matters to generate wider interest in various bills under consideration. There was a lack of efforts to raise awareness and programs to build the capacity of



members on issues related to parliamentary practices so that they may participate more actively in assemblies.

Political parties frequently influenced parliamentary decisions and members said it was difficult to oppose party's stands. In parliamentary practice, the whip is used to implement parliamentary parties' decisions on special issues. However, members of the ruling party themselves stated that they were prevented from freely expressing their opinions by the whip, whether it was an overt whip or not. Provincial assembly members from the ruling party had to give their acceptance on bills that they were discontented with, even going to the extent of asking members from the opposition party to raise the concerns which they were not able to express themselves. It was undemocratic for parties to decide in outside meetings – away from parliamentary party meetings – to choose the capital and name of a province, a task that should have been the right of sovereign provincial assemblies.

It is crucial for assembly members to study the draft bills thoroughly and seek help from experts on topics they are unaware about. The task of forming policies and laws, oversight of the government, and ensuring good governance is more important than distributing development plans. The main task of provincial assembly members is to enact laws. However, this is still not in the priority of many members. They were instead more interested in development works. Provincial governments allocated funds to provincial assembly

members in the name of infrastructure development, mirroring the attitudes of the Federal Parliament. Provincial assembly members did not prioritize enacting laws and were more interested in the implementation of constituency development funds. This unfortunate intermixing between the executive and legislative has changed the dimensions of the government and the assembly. This also created divisions between FPTP members and those elected under the PR system.

Provincial assemblies enacted various laws but members were unaware about their implementation. Assembly members were not interested in whether laws made for the local governments were implemented. It is also the responsibility of the provincial assemblies to ensure that the delegated legislations reflected the spirit of Acts.

Provincial assemblies were learning by doing, and had established their identity. These achievements, despite facing various challenges, are commendable. It should be the objective of provincial assemblies to build on these achievements. Provincial assemblies were formed under the federal system. The successful functioning of assemblies will help in effective implementation of federalism. Assemblies must therefore focus on enacting laws to make governments accountable on governance and making the federal system stronger.

## RECOMMENDATIONS

### FOR THE PROPER MANAGEMENT OF PROVINCIAL ASSEMBLY

1. Physical infrastructure and resources such as assembly halls with adequate space for journalists and audience, dedicated rooms for thematic committees and parliamentary parties, and libraries should be provided for.
2. Effective means of information technology should be used during discussions, and robust documentation of committee reports, routines proceedings and bulletins must be ensured. Citizens should have easy access to such information of public importance.
3. Adequate employees trained in parliamentary practice must be made available and provided with regular trainings. Employees without experience of parliamentary exercise should be provided with necessary orientation and trainings.

### TO ENSURE REGULAR FUNCTIONING OF PROVINCIAL ASSEMBLY

1. Federal laws necessary to enable provincial assemblies to enact laws on issues of shared jurisdiction must be immediately enacted.
2. Provincial governments must prepare bills on time and provide adequate business for the regular and effective operation of their provincial assemblies.
3. To make activities of thematic committees effective and regular, remaining appointments for the posts of chairpersons of various committees should be fulfilled immediately.

### TO ENSURE EFFECTIVE PARTICIPATION

1. To ensure meaningful participation in provincial assemblies, political parties must regularly train their members on parliamentary practices including law making processes and holding discussions on specific subjects. Special orientation is necessary for members with no prior political or parliamentary experience.
2. Ethnic, genders, and regional diversity must be reflected in appointments of important positions such as those of speakers, chairpersons of various thematic committees, parliamentary party leaders, and chief whips.
3. Political parties must create an atmosphere where assembly members can use their own judgment on important discussions and decisions.
4. Assembly members should be allowed and encouraged to use their own languages in assembly meetings and discussions.

### TO ENSURE ACCOUNTABILITY OF ASSEMBLY MEMBERS

1. Members must prioritize making laws and providing oversight of governments than development works.
2. Members must ensure regular participation to fulfill the quorum for assembly and committee meetings.

## **TO ENSURE ACCOUNTABILITY OF GOVERNMENT TOWARDS PROVINCIAL ASSEMBLY**

1. Provincial governments must properly implement decisions and directives made by provincial assemblies and thematic committees.
2. Provincial governments must ensure accountability by addressing questions and issues raised in assemblies within the stipulated time and by providing information and documents demanded by the committees.

### Annex 1: List of Thematic Committee Chairpersons

SN	Province	Committee	Chairperson	Ethnicity	Gender	Party
1	1	Public Accounts	Shiva Narayan Gangai	Janajati	Male	NC
2		Judicial, Administration and Legislation	Indra Mani Parajuli	Khas Arya	Male	NCP
3		Good Governance and Planning	Arjun Rai	Janajati	Male	NCP
4		Finance Committee	Mohan Kumar Khadka	Khas Arya	Male	NCP
5		Social Development	Sarita Thapa	Khas Arya	Female	NCP
6		Industries, Tourism, and Environment	Sita Thebe	Janajati	Female	NCP
7		Natural Resources and Infrastructure Development	Sarbadhwoj Saba Limbu	Janajati	Male	NCP
8	2	Public Accounts	-	-	-	NCP
9		Development	Shekh Abul Kalam Azad	Muslim	Male	Samajbadi
10		Women, Children, and Social Justice	Jayanul Rain	Muslim	Male	RJPN
11		Natural Resources and Environment	Ram Chandra Mandal	Madheshi	Male	NCP
12		Agriculture and Land Management	Birendra Prasad Singh	Madheshi	Male	NC
13		Province Affairs	Ashok Kumar Yadav	Madheshi	Male	Samajbadi
14		Finance and Planning	Manish Kumar Suman	Madheshi	Male	RJPN
15	Bagmati	Public Accounts	Nhuchhe Narayan Shrestha	Janajati	Male	NC
16		Industries, Tourism, and Environment	Rama Ale Magar	Janajati	Female	NCP
17		Province Affairs	Madhav Prasad Paudel	Khas Arya	Male	NCP
18		Education, Health, and Agriculture	Ghanashyam Dahal	Khas Arya	Male	NCP
19		Finance and Development	Saresh Nepal	Khas Arya	Male	NCP
20	Gandaki	Public Accounts	Kumar Khadka	Khas Arya	Male	NC
21		Finance and Development	Dipak Koirala	Khas Arya	Male	NCP

SN	Province	Committee	Chairperson	Ethnicity	Gender	Party
22	5	Province Affairs	Krishna Bahadur Thapa	Janajati	Male	National People's Forum
23		Legislation	Mohan Regmi	Khas Arya	Male	NCP
24		Public Accounts	Dilli Bahadur Chaudhary	Janajati	Male	NC
25		Province Affairs and Law	Dama Kumari Sharma	Khas Arya	Female	NCP
26		Social Development	Drig Narayan Pandeya	Madheshi	Male	NCP
27	Karnali	Finance, Industries, and Tourism	Dadhi Ram Neupane	Khas Arya	Male	NCP
28		Physical Infrastructure and Development	Aasha Swarnakar	Dalit	Female	NCP
29		Agriculture, Forest, and Environment	Bijay Bahadur Yadav	Madheshi	Male	Samajbadi
30		Public Accounts	Dinabandhu Shrestha	Janajati	Male	NC
31		Legislation and Province Affairs	Padam Bahadur Rokaya	Khas Arya	Male	NCP
32	Sudurpashchim	Finance and National Resource	Ammar Bahadur Thapa	Khas Arya	Male	NCP
33		Social Development	Raju Nepali	Dalit	Female	NCP
34		Public Accounts	Kumari Nanda Bam	Khas Arya	Female	NC
35		Finance, Development, and Natural Resource	Harka Bahadur Kunwar	Khas Arya	Male	NCP
36		Legislation and Province Affair	Nepali Chaudhary	Janajati	Male	NCP
37		Social Development	Kunti Joshi	Khas Arya	Female	NCP

## LIST OF ACRONYMS

CDF	Constituency Development Fund
CPNM	Communist Party of Nepal Maoist
DRCN	Democracy Resource Center Nepal
FPTP	First-past-the-post
FCGO	Financial Comptroller General's Office
HoR	House of Representatives
NC	Nepali Congress
NCP	Nepal Communist Party
NSPN	Naya Shakti Party Nepal
O&M	Organization and Management
PAC	Public Accounts Committee
PR	Proportional Representation
RJM	Rashtriya Janamorcha
RJPN	Rashtriya Janata Party Nepal
SPN	Samajbadi Party Nepal

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Democracy Resource Center Nepal (DRCN) aims to ensure inclusive democracy and responsive governance through the successful implementation of federalism.

DRCN produces periodic reports based on field observation and studies on politics and governance. Most recent reports include *Formation and Functioning of Provincial Institutions*, *Budget Allocation and Implementation by Local Governments in the Federal Structure*, and *School Education and Local Government*.

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How provincial assemblies perform their legislative and oversight functions will help determine the course of federalism in Nepal. The early functioning and achievements of provincial assemblies can also provide important lessons for the future. Activities of the representatives elected by citizens are also matters of important public concern. This study assesses various aspects of participation in provincial assemblies, and is expected to contribute in bringing their activities in the public debate.



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