

Proceeding from Convening I

***Virtual National Convening with
Development funders, National
and Sub National Actors on
Access to Justice***

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Institute of Strategic and Socio-Economic Research (ISSR)



December 2020



Institute for Strategic and Socio-Economic Research (ISSR)
Yak and Yeti Road, Durbar Marg
G.P.O. Box: 20410, Kathmandu, Nepal
Phone: +977-1-4229985, 4229986,
Fax: +977-1-4249158

Email: info@issr.org.np
Website: www.issr.org.np

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from
Convening I**

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National Actors on Access to Justice**

On
November 5, 2020

**As part of the project:
“A National Effort to Advance the Justice Agenda and the Implementation of
the Network Strategy in Nepal”**

Submitted to:
Open Society Foundation London (OSFL)

Submitted by:
Institute for Strategic and Socio-Economic Research
(ISSR)
Yak and Yeti Marg, Kathmandu-1, Nepal
Tel: +977 1 4229985, +977 1 4229986
Email: info@issr.org.np



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Prof. Dr. Govind Nepal

Member, Board of Directors

Institute for Strategic and Socio-Economic Research (ISSR)

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उद्घाटन मन्तव्य

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न्यायमा पहुँचको विषय कानूनविद्हरूले उठाउने गरेको तर हामी अर्थशास्त्रीहरूले यो विषयमा कसरी जाने के गर्ने भन्ने चाहिँ अलि अलि अलमलको विषय हुँदोरहेछ। मेरि विचारमा यो विषय विश्वको साथै नेपालको निम्ति पनि महत्वपूर्ण छ भन्ने लाग्छ। यसले सम्बृद्धी, समानता र न्यायको अवधारणालाई एकसाथ समेट्छ जस्तो लाग्छ। समाजमा असमानता, विभेद भएमा त्यसले द्वन्द्व सिरजना हुने र द्वन्द्वले अशान्ति हुने र सम्बृद्धिको विनाश गर्ने स्थिति बन्छ। न्यायमा पहुँचको लागि नै नेपालले लामो शसस्त्र विद्रोह र संक्रमण काल भोग्नु प-यो। नयाँ संविधानले आफ्नो प्रस्तावनामा, निर्देशक सिद्धान्तमा र मौलिक हकमा मसामाजिक न्याय र समानताको लागि व्यवस्था गरेको छ र वर्तमान सरकार न्यायमा पहुँच स्थापित गर्न प्रतिवद्ध छ।

संविधान र सरकारको प्रतिवद्धतालाई ध्यानमा राखेर राष्ट्रिय योजना आयोगले स्वतन्त्र, निष्पक्ष, पहुँचयोग्य, सक्षम, विश्वसनीय र प्रभावकारी न्याय प्रणाली स्थापित गर्न रणनीत, कार्य नीत प्रतिपादन गरेकोछ। सम्बृद्ध नेपाल र सुखी नेपालीका परिसूचकमा पनि न्याय र सुरक्षाका विषय समावेश छन्।

मैले हेर्दा न्यायमा पहुँचलाई अदालत मा पहुँच सँग मात्र जोड्नु हुँदैन, यो विषय मुलुकको आर्थिक सामाजिक रुपान्तरणसंग पनि संवन्धित छ सरकारले दीगो विकास लक्ष, जसमा न्यायमा पहुँचको विषय पनि छ, योजना र बजेट मार्फत कार्यान्वयनमा ल्याइरहेको छ। १५औँ योजनाले विधिको शासनको अन्तर्राष्ट्रिय सूचकांकमा ०.५४ बाट ०.५८ मा पुग्ने लक्ष लिएको छ, सर्वोच्च अदालत तथा राष्ट्रिय मानव अधिकार आयोगका आवधिक रणनीतिक योजनाहरूलाई साधन र स्रोत जुटाउन प्रतिवद्ध छ, न्याय प्रणालीको सुधारको वारेमा राष्ट्रिय योजना आयोग गम्भीर छ,

कोभिड-१९ को संवन्धमा अध्ययन गरी आवश्यक कार्यक्रम कार्यान्वयनमा ल्याउन सरकार तत्पर छ। समग्रमा म के देख्छु भने राज्य न्यायमा पहुँचको बाटोमा दृढतापूर्वक अग्रसर छ।

पहिलो कार्यपत्र प्रस्तुति : “न्यायमा पहुँचः अवधारणा र अभ्यास”

डा. नरेन्द्रमान श्रेष्ठ, पूर्व कानून सचिव, नेपाल सरकार



समाजमा दण्डहीनता अन्त्य नभएसम्म देशमा शान्ति कायम हुँदैन। देशमा शान्ति कायम भएमात्र आर्थिक विकासका कार्यक्रम अगाडि बढ्छ। न्यायमा सबैको पहुँच भएमा मात्र देशको आर्थिक विकाश हुने हुँदा यसमा न्यायमा पहुँचको महत्वपूर्ण भूमिका हुन्छ भन्ने धारणा छ। न्यायमा पहुँच लाई कानूनी शासनको आधारभूत सिद्धान्त मानिन्छ।

न्यायमा पहुँचको अभावमा देशको संविधान, ऐन कानून आदिबाट प्राप्त हक अधिकार हनन भएमा पुनः स्थापित गर्न आवाज उठाउन नसकिने, भेदभावविरुद्ध लड्न नसकिने तथा निर्णयकर्तालाई जिम्मेवार बनाउन नसकिने हुन्छ।

व्यक्तिको कानूनी सूचना प्राप्त गर्ने हक, कानूनी सहायता तथा चेतना, अदालत, न्यायाधीकरण, वैकल्पिक विवाद समाधान संयन्त्रमा पहुँच, कानूनी सुधार तथा कानून निर्माण प्रक्रियामा सक्रियरूपमा भाग लिन पाउने कुरा पनि न्यायमा पहुँचको अवधारणा अन्तरगत पर्छ।

विद्वानहरूले न्यायमा पहुँच भनेको एउटा यस्तो न्याय प्रणाली हो जसमा न्यायमा सबैको पहुँच हुन्छ। त्यस्तै, आर्थिक, सामाजिक, योग्यता वा अन्य कुनै हैसियतमा भिन्नता भए पनि सबैले समानरूपमा न्याय पाउने अवसरलाई न्यायमा पहुँच भनेका छन्। यसबाट के स्पष्ट हुन्छ भने न्यायमा पहुँच भनेको प्रत्येक व्यक्तिले जातजाति, लिंग,

नेपालको संबिधानको धारा १८, १८ (३), २० (१०), २४ र ५१ मा न्यायमा पहुँचको व्यवस्था छ। अन्तर्राष्ट्रिय सन्धि सम्झौताका रूपमा रहेका युडीएचआर (UDHR), १९४८ को धारा ७ देखि ९ सम्म, आइसीसीपीआर (ICCPR) को धारा १४, सीडीडीएडब्ल्यू (CEDAW) , १९७९ को धारा ५, सीडआरडी (CERD), सीआरसी (CRC) आदिमा न्यायमा पहुँचको बारेमा व्यापक रूपमा उल्लेख गरेको पाइन्छ। ती महासन्धिहरूमा जसले न्याय प्राप्तिको लागि पैसा तिर्न सक्दैन निजहरूलाई निःशुल्क कानूनी सहायता दिनुपर्ने कुराहरू उल्लेख भएको पाइन्छ।

त्यस्तै हाम्रो कानूनी सहायता ऐन, २०५४, मुलुकी देवानी संहिता, २०७४, बालबालिका ऐन, २०४८, मुलुकी देवानी कार्यविधि संहिता, २०७४, मुलुकी दण्डसंहिता, २०७४, विशेष अदालत ऐन आदिमा न्यायमा पहुँचको बारेमा उल्लेख गरेको पाइन्छ।

न्यायमा पहुँचको निम्ति नेपालमा भएको अभ्यासलाई हेरेने हो भने हाम्रो देशको सर्वोच्च अदालतले अवस्यकता अनुसार Juvenile court को स्थापनाको प्रक्रिया तरुन्त सुरु गर्न र अदालती कारवाहीमा महिला, बालबालिका र एच आई भि (HIV AIDS) संक्रमित व्यक्तिको गोप्यता सुरक्षित राख्न आवश्यक कानूनहरू बनाउन सरकारलाई आदेश दिएको पाइन्छ।

निरन्तररूपमा निःशुल्क कानूनी सहायता प्रदान गर्न तथा घरेलु हिंसामा छुट्टै द्रुतगतिको अदालत (fast track court) स्थापना गर्न नेपाल सरकारलाई आदेश दिएको पाइन्छ। यी आदेशहरू न्यायमा पहुँचका लागि अति महत्वपूर्ण छन्।

हाम्रो देशमा सर्वोच्च अदालतसँग कानूनको न्यायिक पुनरावलोकन र मौलिक हकअधिकारको प्रचलनको लागि बन्दीप्रत्यक्षीकरण, परमादेश, उत्प्रेषण, अधिकारप्रेक्षा आदि रिटहरू जारी गर्ने असाधारण अधिकार छ। उच्च अदालत ७ वटा र जिल्ला अदालत ७७ वटा छन्। उच्च अदालतले मातहतका जिल्ला अदालतहरूले गरेको फैसलाको पुनरावेदन सुन्छ। जिल्ला अदालतले आफ्नो क्षेत्राधिकार भित्रका जिल्लाको मुद्दा मामिला हेर्छ र स्थानिय निकायमा रहेको न्यायिक समिति ले गरेको फैसलाहरूको पुनरावेदन सुन्ने गर्छ।

७५३ वटा न्यायिक समिति छन्। स्थानीय निकाय सञ्चालन ऐन, २०७४ को दफा ४७ ले यस समितिलाई मिलापलबाट समाधान हुने सबै प्रकारको देवानी मुद्दाहरूमा मध्यस्थताको माध्यमबाट विवादको समाधान गर्ने र एक वर्षसम्म कैदको सजाय हुने फौजदारी प्रकृतिको मुद्दा हेर्ने अधिकार प्रदान गरेको छ।

न्यायमा पहुँचको लागि देहाय बमोजिम रकमको जोहो गर्ने अन्तर्राष्ट्रिय प्रचलन देखिन्छ:

सरकारी अनुदान: कानूनी सेवाको लागि देशहरूमा न्याय मन्त्रालयमार्फत सरकारले रकम प्रदान गर्ने प्रचलन छ। अमेरिकामा कानूनी सेवा प्रदान गर्ने व्यक्ति वा निकायहरूले स्वास्थ्य केन्द्रमा कायम रहेको सञ्चालसँग सम्बन्ध राख्ने गरेको देखिन्छ।

भारत, नाइजेरिया आदि देशहरूमा नीजि क्षेत्र र वित्तीय संस्थाहरूले प्राथमिकता प्राप्त क्षेत्रमा अनुदानको लागि आफ्नो वार्षिक आम्दानीको केही प्रतिशत छुट्याएका हुन्छन्। यो अनुदानको रकम कृषि, शिक्षा, स्वास्थ्य आदि क्षेत्रमा खर्च गरिन्छ र न्यायमा पहुँचको लागि पनि खर्च गर्ने गरिएको छ।

व्यापारीको सहभागिता: व्यापारीहरूलाई न्यायमा पहुँचमा संलग्न गराउन सकिने सियरालिओनले हाल सालै संसदमा जगामा ठूलो लगानी गर्ने व्यापारीले गरेकाने आम्दानीको केही रकम कानूनी सहायताको लागि Basket Fund मा राख्ने र सो रकम प्रभावित समुदायको न्यायमा पहुँचमा खर्च प्रस्ताव ल्याएको छ।

कानूनी सेवाको लागि Social Impact Bond को प्रयोग: यसमा सार्वजनिक लगानी र Private Finance को रकम समावेश भएको हुन्छ। यो रकम कुनै सस्थासँग करार गरी त्यस्तो सस्थालाई तोकिएको काम वा जिम्मेवारी पूरा गरेको परिणामको आधारमा भुक्तानी (Payment by Result) गरिन्छ। यो प्रचलन बेलायतमा छ,। बेलायतमा Legal Cooperatives स्थापना गरी कानूनी सहायताको लागि सदस्यहरूबाट केही शुल्क लिने गरेको पाइन्छ।

त्यस्तै नेदरल्याण्ड, जर्मनीजस्ता युरोपेली मुलुकहरूले न्यायमा पहुँचका लागि Legal Expenses Insurance गर्ने गरेको पाइन्छ र यो ज्यादै प्रख्यात छ।

बंगलादेशमा Bangladesh Rural Advancement Committee मा कानूनी सहायताको लागि पैसा दिन सक्ने व्यक्ति र सस्थाहरूसँग चन्दा माग्ने प्रचलन छ। यसमा जनताले खुसी साथ चन्दा दिने गरेको देखिन्छ।

New Philanthropic Model: विभिन्न व्यक्ति वा निकायहरूबाट प्राप्त चन्दा, दान, बकस आदि बैकमा जम्मा गरी सोबाट प्राप्त ब्याज कानूनी सहायताको प्रयोजनको लागि खर्च गर्ने गरिन्छ। यो प्रचलन पाकिस्तान र साउथ अफ्रिकामा रहेको पाइन्छ।

नेपालमा वार्षिक ४० हजारभन्दा कम आम्दानी हुने व्यक्तिले कानूनी सहायता पाउँछन् । हाम्रो देशमा एक केन्द्रीय कानूनी सहायता समिति र ७७ जिल्लामा जिल्ला कानूनी सहायता समिति रहने व्यवस्था भए पनि ४८ जिल्लामा मात्र कानूनी सहायता समिति छन् । सरकारले यस आर्थिक वर्षको लागि एक करोड सत्तरी लाख रुपैयाँ बजेट छुट्याएको छ ।

महिला, बालबालिका तथा ज्येष्ठ नागरिक मन्त्रालय, विभिन्न एनजिओ, आइनजियो, महिला आयोग, दलित आयोग लगायतले न्यायमा पहुँचका लागि विभिन्न कार्यक्रमहरू सञ्चालन गरिरहेका छन् तर केन्द्र र जिल्ला सदरमुकाममा मात्र केन्द्रित छन् । जिल्ला कानूनी सहायता समितिमा नियुक्ति गरिएका अधिवक्ताहरूले नेपाल सरकारको सुब्बाले पाउने सरहको पारिश्रमिक पाउँछन् । उक्त परिश्रमिक पनि समयमा नपाउने समस्या छ ।

कानूनी सहयोग लिनेहरूले सरकारबाट पाउने सेवासुविधा सहजरूपमा पाएको देखिँदैन । सरकारले दिने रकम कम भएको अवस्थामा न्यायमा पहुँच कार्यक्रममा नीजि क्षेत्रबाट उनीहरूले वर्षमा गरेको आम्दानी को केही प्रतिशत कर्पोरेट संस्थागत सामाजिक उत्तरदायित्व अन्तर्गत रकम उठाई सो न्यायमा पहुँचमा खर्च गर्न नसकिने होइन ।

विदेशमा, जस्तै कानूनी खर्च शुल्क बीमा पनि गर्न पनि सकिन्छ । कानूनी सहायताले निःशुल्क कानूनी सहायता प्रदान गर्ने वकिलको क्षमता बढाउने काम गर्नुपर्छ । मुद्दा लडेको कारणबाट आवास र आधारभूत आवश्यकता गुमाएका महिला, बालबालिका तथा अन्य व्यक्तिका लागि पिडित र साक्षीको सुरक्षा गर्नुपर्छ ।

‘न्यायमा पहुँचको प्रभावकारी कार्यान्वयनका ७५३ स्थानीय तहमा रहेको न्यायिक समितिहरूमा कानूनी सहायताको व्यवस्था गर्नुपर्छ । न्यायिक समितिका सदस्यहरूलाई क्षमता वृद्धि तालिम दिनु पर्छ । कानूनी सहायता पाउने व्यक्तिहरूको वास्तविक तथ्यांक संकलन गरी राष्ट्रिय स्तरमा एकीकृत कानूनी सहायता कोष खडा गर्नुपर्छ । यो कोषमा रहेको रकम कानूनी शुल्क, पिडित र साक्षी, तिनका उपचार, पुनस्थापना केन्द्र, यातायात खर्च, पीडितले मुद्दा हारेको अवस्थामा निजले क्षतिपूर्ति दिन नसक्ने रहेछ भने सो व्यहोर्ने आदि गर्नुपर्छ ।

जिज्ञासा माननीय रामचन्द्र ढकाल, सदस्य, प्रदेश नीति तथा योजना आयोग, बागमती प्रदेश

हाम्रा रितिरिवाज, संस्कार, जात जातिको विविधता, भौगोलिक विकटताका कारणले न्यायमा पहुँचको अवस्था कमजोर देखिन्छ । यसलाई विभिन्न जातजाति सीमान्तीकृत वर्गसमक्ष पुऱ्याउने दायित्व, जिम्मेवारी हामी सबैको हो ।

नयाँ परिवर्तित स्थितिअनुसार तीनै तहका सरकारबीच समन्वय पुगेको छैन । न्यायमा पहुँचको कार्य योजना प्रभावकारी रूपमा लागू गर्न सबै प्रयत्नरत हुनुपर्छ ।

श्री केदारनाथ शर्मा, सचिव, आन्तरिक मामिला र कानून मन्त्रालय, गण्डकी प्रदेश

प्रचलित कानूनले गर्ने कुराहरू कतिपय नजिरका रूपमा स्थापित भएका छन् । न्यायमा पहुँचको नीति बनाउन हामी क्रियाशील छौँ । संघीय मन्त्रालयले बनाएका नीति नियमहरू, कामकारबाहीहरू प्रदेश सरकारले ग्रहण गर्नुपर्ने अवस्था छ । हामी भर्खर अनुभव बटुल्दै गरेको अवस्थामा छौँ ।

हामीले कानून बनायौँ तर संयन्त्र र कार्यान्वयनको विषय हेरेनौँ । संसदले कानून बनाउँछ तर अनुगमन गर्दैन । न्यायालयले पनि हेर्दैन ।

न्याय क्षेत्रको स्ट्रक्चर हेर्दा न्यायालयलाई संघीयता आएको छैन जस्तो छ । प्रदेश मातहतमा अदालत छैनन् । राजनीतिक रूपमा हामीले संघीयता अभ्यास गर्नुपर्छ तर न्याय क्षेत्रमा एकात्मक अभ्यासमा गयौँ । यसमा विद्वत वर्गले छलफल गरौस् ।

श्रीमती अनिता न्यौपाने थपलिया, कार्यकारी अध्यक्ष, कानूनी सहायता र परामर्श केन्द्र (Legal Aid & Consultancy Center)

यो कोभिडको बेला न्यायमा पहुँच महत्वपूर्ण छ । कोभिडको अवस्थामा मौलिक हककै कुरामा पनि संझौता गर्न परेको अवस्था छ । महिला बालबालिकाको समस्या अझ बढी छ । हामीले विगत ३४ वर्षदेखि निःशुल्करूपमा कानूनी सहायता दिँदै आएका छौँ । न्यायमा पहुँच कानूनी सहायताको एउटा अंग मात्र भए पनि यो महत्वपूर्ण छ । यो प्राथमिकतामा परेको छैन । ७७ जिल्लाका लागि १ करोड ७० लाख बजेट छ । यसबाट कति मानिसले कानूनी सहायता पाउँछन् ! कानूनी सहायतामा लगानी बढाउन जरुरी छ । हामीले ५० हजारभन्दा बढी महिला तथा बालबालिकालाई कानूनी सहायता दिएको भए पनि यसको मूल्यांकन भएन ।

दोस्रो कार्यपत्र प्रस्तुति : "न्यायमा पहुँचः राष्ट्रिय तथा अन्तर्राष्ट्रिय सन्दर्भमा"

श्रीमान कल्याण श्रेष्ठ, पूर्व प्रधान न्यायाधीश



न्यायमा पहुँच सर्वकालिक र सर्वदेशीय मुद्दा हो । राज्यको जग भनेकै न्याय हो । जुन राज्यले न्यायको इन्कार गर्छ त्यो राज्य भएर रहँदैन । न्यायमा पहुँच आधारभूत सरोकारको विषय हो । तर दुर्भाग्य! न्यायमा पहुँचको बारेका कुरा गर्ने संस्थाहरु कति छ । कि बारले कुरा गर्ला कि अदालतले तर त्योबाट बाहिर रहेर कुरा गर्ने संस्था र मानिसहरु सितिमिति भेटिँदैनन् । आज ISSR ले महत्वपूर्ण पहलकदमी लियो ।

न्यायको मुद्दा स्वास्थ्य जस्तै जीवनको मुद्दा हो । यसलाई साइड लाइनको इस्यु भन्नु हुँदैन । नयाँ संविधानमा न्यायका हकको कुरा छ । असमर्थलाई निःशुल्क कानूनी सेवा दिने प्रत्याभूति गरेको छ । यति धेरै प्रतिवद्धता हुँदा हुँदै पनि न्यायको पहुँचको अवस्था निकै विचारणीय अवस्थामा छ ।

संविधान यथार्थमा रुपान्तरण हुँदैन भने संविधान लेखुको कुनै अर्थ हुँदैन । अन्तर्राष्ट्रिय स्तरमा पनि न्यायमा पहुँच जटिल मुद्दाको रुपमा रहेको छ, चाहे अमेरिका होस या बेलायत । विकास र कानूनका सन्दर्भमा विश्व बैंकले ५० देशमा चलाएका विकास आयोजनाहरुको कार्यान्वयनको समीक्षा हेर्दा किन विकासोन्मुख देशमा सफलता पूर्वक विकास आयोजनाहरु सम्पन्न हुँदैनन् भन्ने जिज्ञासा बढ्यो । अनुसन्धानले कानूनी राज्यको समस्या देखायो । निष्कर्ष के निकाल्यो भने कानूनी राज्य स्थापनामा राज्यको लगानी एक प्रतिशत बढाउने हो भने कुल गार्हस्थ्य उत्पादनमा ४.५ प्रतिशतको योगदान दिन सकिन्छ । ऐशियाली विकास बैंक, विश्व बैंक जस्ता बैंकरहरुले पनि न्यायमा पहुँच लाई जोडेको देखिन्छ ।

हाम्रोमा के कुरा भएको छ भने न्यायमा पहुँचको मुद्दा अदालतमा लैजाने, वकिलको बहसको शुल्क घटाउने वा वकिल नियुक्ति गर्ने प्रणाली सरलीकरण हुनुपर्छ । गरिबी निवारण, विकास, मानव अधिकारसँग

यसलाई जोड्ने हो भने हामीले न्यायमा पहुँचलाई जोड्नुपर्छ । गरिबी र कानूनको बारेमा अध्ययन हुनु पर्छ ।

संविधानमा हकहरु लेखिएको भए पनि हकका अधिकारीहरुलाई चेतना दिलाउनुपर्ने छ । गरिबको कुरामात्र होइन, सीमान्तीकृत, बालबालिका, महिला वहिष्करणमा परेकाहरुका आआफ्नै अनुभवहरु छन् । त्यसको बारेमा अध्ययन गरेको खै ? सबैलाई काम लाग्ने गरी सर्भेक्षण पनि गरेका छैनौं । दलित सीमान्तीकृतहरुको अध्ययन छैन । न्यायमा पहुँच हुँदैन भने उसले अवसर भोग्न पाउँदैन । न्यायमा पहुँच दिएपछि बल्ल न्याय हुन्छ ।

संयुक्त राष्ट्रसंघका तत्कालीन महासचिव कोफी अन्नानले रुल अफ ल भनेको लक्जरी होइन, एक्सेस टु जस्टिस साइड लाइन इस्यु पनि होइन भनेका थिए । रुल अफ ल सिस्टम डिफिसियन्सि छ भने प्रजातन्त्रले सुशासन दिँदैन ।

संयुक्त राष्ट्रसंघको तत्वावधनमा विश्वमा धेरै काम हुन्छन् । सहस्राब्दि विकासका लक्ष्यमा कानूनी शासन र न्यायमा पहुँचको एजेन्डा पर्न सकेन । यो आफैमा विडम्बना थियो । पछि सन् २०१५ को सेप्टेम्बरमा संयुक्त राष्ट्रसंघको महासभाले दीगो विकास लक्ष्यको १६औं लक्ष्यमा न्यायमा पहुँचको विषय समावेश गर्यो ।

राज्यले सबैलाई न्याय दिलाउन सकारात्मक कदम चाल्नुपर्छ । यसको अर्थ कोही पनि न्यायको मार्गबाट नछुट्न भन्ने हो । सबैले समान न्याय पाउनु भन्ने हो ।

अन्तर्राष्ट्रिय न्यायका इस्युमा आरसीसीपीआरमा इक्वालिटी फर ल, फेयर र पब्लिक हेयरिड, इन्डिपेन्डेन्ट कम्पिटेड इम्पार्सियल टे«बुनलबाट निष्पक्ष सुनुवाई हुनुपर्छ भन्ने अधिकार घोषणा गर्छ । न्यायको प्रक्रियामा कसैले पनि हस्तक्षेप गर्नु हुँदैन । फेयर प्रोसेस स्थापित गर्नुपर्छ । न्यायापालिकालाई उसको जिम्मेवारी पूरा गर्न राज्यले भरपुर सहयोग गर्नुपर्छ । यो अधिकार तोकेरमात्रै रुपान्तरण हुनेवाले छैन । प्रोसिच्युटरहरुलाई पनि उनीहरुको डिप्रीटिलाई अफोर्ड गर भनेको छ । उनीहरुको कोड अफ कन्डक्टले नै गरिब, असहाय पीडितहरुलाई सहयोग गर भन्ने जिम्मेवारी छ भनेको छ ।

निचोडमा, न्यायमा पहुँच भनेको सबैको निम्ति न्यायमा पहुँचको समान अवसर हो । यसको मतलब फेयर, ट्रान्सप्यारेन्ट इफेक्टिभ, ननडिस्क्रिमिनेटोरी एण्ड एकाउन्टेबल सर्भिसेस घाट प्रोमोट एक्सेस टु जस्टिट फर अल । न्यायका हक मात्र होइन न्यायको फल पनि सबैलाई वितरण हुनुपर्छ भनेको हो ।

राज्यले न्यायपालिकालाई सबल गर्न सहयोग गर्नुपर्छ भन्ने अन्तर्राष्ट्रिय मान्यता छ । अहिले हाम्रोमा कुल राष्ट्रिय बजेटको ०.३० प्रतिशत मात्र

न्यायको निम्ति खर्च गरिराखिएको छ । बेलायतमा न्यायिक क्षेत्रमा ४.५ प्रतिशत लगानी हुन्छ । अब कुन मुखले भन्ने हामीले न्यायको पहुँचका लागि प्रशस्त कार्यक्रम गरेका छौं भन्ने ? पीडितहरूले अन्यायको उजुरी गर्न पनि सक्दैन । न्यायका संस्थाहरूमाथि विश्वास पनि गर्दैन । बोल्ने र प्रमाण जुटाउनै सक्दैन । यसले बाधा उत्पन्न भएको छ । कथंकदाचित फैसला भए पनि कार्यान्वयन हुँदैन ।

संक्रमणकालीन न्यायको कुरामा फैसला गरेको धेरै समय भए पनि कार्यान्वयन भएको छैन । संविधानको बारेका कति जनालाई थाहा होला ? अपराध संहिता देवानी संहिता बनाएका छौं तर कतिलाई थाहा होला ? यसका बारेमा बुझाउनुपर्छ । दाबी प्रस्तुत गर्नसक्ने हैसियत बनाउनसक्नुपर्छ । न्यायमा पहुँच भनेको वकिल नियुक्तिमात्र होइन । अमेरिकामा पनि काला जातिहरूमा यस्तो समस्या छ । न्यूयोर्कमा सेल्फ रिप्रेजेन्टेशनको अवस्था छ, अधिवक्ताहरूको टिम छ, न्यायाधीश छुट्टै छ, एनजिको संस्था संवद्ध छ । उसले तिम्रो कुरा यो हो भन्ने सबै जानकारी दिन्छ । अनि न्याय पाउन सहज हुन्छ ।

फिलिपिन्समा अदालतको सेवा डरलाग्दो नहोस्, मनोवैज्ञानिक चाप नहोस् भनेर जस्टिस अन हिल्स भन्ने रहेछ । यसले जनतालाई अदालतसम्म पुऱ्याउन सहयोग गर्छ । यता हाम्रोमा कानून पढेर पैसा कमाउने ध्याउनु छ । यहाँ त ऋण काटेर महँगा वकिल लिनु पर्ने अवस्था छ । मैले सर्वोच्चमा हुँदा न्यायको प्रक्रिया सरलीकरण गर्न केही निर्णय गरेको छु । तारिख थाप्ने निवेदन पनि लेख्न नसक्ने र लेखिदिनेले महँगो पैसा उठाउने अवस्था हुन्छ । यसो नहोस् भनेर अदालतले नमुना बनाएको छ । बार एशोसिएनले विरोध गरेको थियो । पछि वकिलहरूले नै प्रयोग गर्न थाले ।

अदालतमा साक्षी बढ्नुपर्ने हुन्छ, यसमा खर्च लाग्छ । यो वर्गको साक्षीको लागि न्यूनतम खर्च सरकारले व्यहोर्नुपर्ने कुरा अहिले कार्यान्वयन भएको छ । मैले नै फैसला गरेको हुँ । दोभासेको व्यवस्था पनि छ । वलात्कारको केशमा पीडितको परिचयात्मक विवरण गोप्य राख्ने व्यवस्था गरेको थिएँ । यो धेरै देशमा छैन । यो नमुनाका रूपमा लिइएको छ । हाडनाताको केशमा बाबुसँगै लड्नुपर्ने अवस्था हुन्छ । पीडितलाई बस्ने ठाउँ चाहिन्छ ।

अष्ट्रेलियामा भएको एउटा केशमा उनीहरूले पीडित मान्छे लुकाउन अर्कै सर्टिफिकेट जारी गरेका थिए । उसलाई क्यानडामा सेटलमेन्ट गरेका थिए । यसमाकति खर्च लाग्यो होला ! न्याय हरहालतमा पाइन्छ भन्ने प्रमाणित गर्न यसो गरिएको हो ।

न्यायको मूल्य हुँदैन । अन्याय महँगो हुन्छ । यी कुरामा राज्य कति संवेदनशील हुन्छ र राज्यले खर्च गर्ने कि नगर्ने भन्ने कुरा महत्वपूर्ण हुन्छ । अदालत नजिकै राखिदिनुपर्छ ।

संक्रमणकालीन न्यायका बारेमा सम्पूर्णरूपमा उपेक्षा गरिएको छ । न्यायको अस्वीकारिता विषम परिस्थिति हो । त्यो कल्पना गर्न सकिँदैन । पब्लिक इन्सेक्युरिटी भएको थियो, डर धाक धम्की दिइएको थियो, संस्थाहरूमाथि अविश्वास भएको थियो, मौलिक अधिकारको उल्लंघन भएको थियो । यी विषयमा अदालतको फैसलाको कार्यान्वयन भएन ।

अधिकारको कुरा स्वीकार गर्ने, दाबी गर्ने, मुद्दा गर्ने, प्रतिनिधित्व गर्ने, फैसला गर्ने र फैसलाको कार्यान्वयन गर्नेसम्मका कुराहरू आउँछन् । हामीले यस्तो तयारी गरेका छौं कि छैनौं भन्ने कुरालाई अन्डरलाइन गर्नुपर्छ ।

१५औँ योजनामा न्यायमा पहुँका विषयमा केही रणनीति राखिएको पाउँदा खुशी लाग्यो । विकासको लक्ष्य निर्धारण गर्दा कानूनी राज्यले कति भरथेग गर्न सक्छ भन्ने हेर्नुपर्छ । हाम्रो आजसम्मको समस्या भनेको सबै हुँदा पनि रूपान्तरण नभएको हाम्रो रूल अफ ल हो । राष्ट्रिय योजना आयोगजस्तो संस्थाले कमिष्ट्रेन्सिभ रूल अफ ल डेभलपमेन्ट प्लानलाई मास्टर प्लान बनाउनुपर्छ । त्यसभित्र न्यायमा पहुँचलाई हेर्नुपर्छ । यसलाई सुरक्षा र मानव विकाससँग जोड्नुपर्छ । असक्षम जनसंख्याले विकासमा केही टेवा दिँदैन ।

म प्रधानन्यायाधीश हुँदा यी कुराहरूलाई हेरेर न्यायमा पहुँच आयोग खडा गरेको थिएँ । अहिले पनि वार्षिक योजनाबाट काम गर्छन् । मेरै नेतृत्वमा स्ट्राटेजी प्लान अफ जुडिसियल रिफर्ममा केही काम भएको छ । जति गरे पनि बजेट नहुँदा केही हुँदैन । संविधान निर्माणका क्रममा मैले न्यायमा पहुँच आयोग लेखिदिनुस् भनेको थिएँ । त्यो भएन ।

संविधान बन्छ, ऐन कानून बन्छ तर जनता समक्ष पुग्दैन । प्रभावित हुने जनसंख्याले थाहा पाउने पद्धतिको विकास गर्नुपर्छ । जुडिसियल आउट रिच प्रोग्राम गर्नुपर्छ । हामीले तेस्रो पञ्चवर्षीय योजनाका अंगका रूपमा यो प्रोग्राम गाउँ गाउँमा सञ्चालन गरेका थियौं । गाउँमा न्यायाधीश भनेको कस्तो हुन्छ भन्ने नै थाहा नहुने र डरमर्दो छवि छ । न्यायाधीश पनि हामी जस्तै मानिस रहेछ भन्ने, डराउनुपर्ने होइन रहेछ भन्ने थाहा हुनुपर्छ । निर्णायक तहमा जनतालाई राख्नुपर्छ । नेता, दल बस्ने होइन । जनताले आफ्नो अभिमत जसरी व्यक्त गर्छ सोही अनुरूप नेताहरूले दलहरूले सरकारले काम गर्नुपर्छ ।

जिज्ञासा माननीय पूर्ण लोकसम, सदस्य, प्रदेश योजना आयोग, प्रदेश १

ज्ञानवर्धक र रोचक प्रस्तुति सुन्न पाइयो । यो दायरा अलिक फराकिलो भएको भए अझ राम्रो हुन्थ्यो । ल विदवाउट जस्टिस इज ब्लाइन्ड भनिँदो रहेछ । पहुँचमा नभएका विशेष वर्गलाई कसरी समेट्ने भन्ने कुरा भयो । नेपालको सन्दर्भमा फिलोसोफिकल डाइमिन्सनहरू लिगल एडको क्षेत्रमा कसरी भएको

होला भन्ने विषयमा थप सुन्न पाएको भए हुन्थ्यो ।

मानवीय मात्र होइन गैरमानवीय कुराहरु पनि आएका छन् । वातावरण, ऐतिहासिक धरोहर, प्राकृतिक न्यायका र सोसल जस्टिसका कुराहरु पनि आएको भए थप राम्रो हुन्थ्यो ।

अघि माननीयज्यूले समृद्ध नेपाल र सुखी नेपाली भित्ताका सूचकहरुको स्पष्ट किटानका साथ न्यायमा पहुँचसँग सम्बन्धित भएर राखिएको बताउनुभयो । हामीले पनि प्रदेश १ मा 'स्वच्छ सुखी र समृद्ध प्रदेश' भनेर दीर्घकालीन सोच राखेका छौँ । यसका ६६ वटा सूचक छन्, जसमा एक्सेस जस्टिस को व्यवस्था गरेका छौँ । विशेषगरी अब हामीले गरिब, सीमान्तकृत लगायतमा कानूनका क्षेत्रमा पहुँच कसरी पुऱ्याउने भन्ने कुरा छ ।

श्री यमलाल भुपाल, सहसचिव, अर्थ मन्त्रालय

कानूनको इस्युमा नरेन्द्र सर र कल्याण श्रीमानको प्रस्तुति सुनियो । गिरिधारी सरले उठाएअनुसार वास्तवमा हामी सेन्टरमा ठूला इस्युको कुरा गर्छौँ तर स्थानीय तहमा सानासाना कुराहरुमा पनि कानून कार्यान्वयनमा समस्या छ । तुरुन्त न्याय दिने विषयमा पनि कठिनाई छ । निःशुल्क कानूनी सहायता दिने मेकानिजमको विकास गर्नुपर्छ । सरहरुका कुराहरु सुन्नु नै मेरालागि ज्ञान बर्धक छ ।

श्री मोहनराज जोशी

विज्ञहरुबाट न्यायमा पहुँचका सवालमा जान्ने अवसर प्राप्त भयो । एक्सेस टु जस्टिस राज्य स्थापनाको मुलुभूत उद्देश्यहरुमध्ये एक महत्वपूर्ण खम्बा हो । जब जस्टिसमा कम्प्रोमाइज हुन्छ, तब राज्य कमजोर भएको र राज्य आफ्नो दायित्वबाट पछि हटेको बुझिन्छ ।

राज्यको क्षमता नहेरी कानून बन्ने गरेकाले कानूनको प्रभावकारिता भएन । हाम्रो संविधानको धारा २१७ मा न्यायिक समितिको व्यवस्था छ । यसले केही हदसम्म प्रभावकारिताको कुरा समेटेको होला । समस्याहरु हुँदाहुँदै पनि न्यायिक समितिले स्थानीय तहमा उब्जिएका सामान्य विवादहरु नजिकबाट समाधान गरेको छ भन्ने मलाई लाग्छ । न्यायिक समितिहरुमा समस्या नभएको होइन तर काम भने भइरहेको छ ।

श्रीमान कल्याण श्रेष्ठ, पूर्व प्रधान न्यायाधीश

पूर्ण लोकसनले उठाएका इस्यु ठूला छन् । यसमा कानूनी सहायतको सिद्धान्त अन्तरनिहीत छ । जसको क्षमता छैन उसलाई सहयोग गर्ने हो । सर्वोच्च अदालतले २०१५ सालमै वैतनिक वकिलको प्रथा सुरु गरेको हो । यो अहिले पनि चालु छ । हामीसँग कानूनी सहायता समिति छ, एनजिओहरुले सहयोग गरेका छन् तर पनि संस्थागत प्रभावकारितामा समस्या छ । कानूनी सहायता

अन्तर्गत लडिएका मुद्दा कति सफल भए र कन्जुमरको लेभल के भयो त्यो स्पष्ट नभई प्रभावकारिता मापन गर्न सकिँदैन । प्राकृतिक सम्पदाका विषयमा पनि ठूला इस्यु छन् । यसमा पनि एक्सेस टु जस्टिसको कुरा जोडिएर आउँछ ।

अदालतमा महिला सेवाग्राहीहरुले शौचालय पाएनन् भने कहाँ जान्छन् ? यो पनि विचार गर्नुपर्छ ।

एउटा अनुसन्धानले के भन्छ भने ८० प्रतिशतभन्दा बढी गरिब जनसंख्यालाई कानूनी सहायता पाइन्छ भन्ने थाहा छैन । जब थाहा नै छैन भने सेवा कसरी लिन्छ ?

कानून कार्यान्वयन फितलो छ । विवाद परे पछि अदालतले हेर्ने हो । कानूनको सबै काम अदालतले गरिदिने होइन । समग्र कानून कार्यान्वयनको निगरानी गर्ने जिम्मा विधायिकाको हो । कार्यान्वयन गर्न नसके कानून बनाएर कानूनको उपहास गर्नुहुन्न ।

न्यायिक समिति व्यवहारमा जनताको नजिक पुगेको छ । कानूनी ज्ञान, क्षमता र सिद्धान्तमा नभई निकटतामा आधारित छ । यथास्थितिमा न्यायिक समितिले नतिजा दिन नसकेको हुन सक्छ ।

तेश्रो कार्यपत्र प्रस्तुति : "नेपालमा न्यायको क्षेत्रमा खर्चको आवश्यकता र लगानीको स्थिति"

डा. रवीन्द्रप्रसाद पाण्डे, बोर्ड अफ डाइरेक्टर, आइएसएआर



टाक्स फोर्स अन जस्टिस फर अल प्रतिवेदन अनुसार विश्वव्यापी रूपमा हेर्ने हो भने न्यायमा पहुँचको खाडल बढी छ । विश्वमा २५।३ करोड मानिस न्याय नपाएर पीडामा रहेका छन् । ४० लाख मानिस आधुनिक दास र १।२ करोड मानिस राज्य विहीन छन् । १।५ अर्ब मानिसले न्याय सम्बन्धी मुद्दामा न्याय पाउँदैनन् । कानून भए पनि कानूनको पहुँच हुनेहरु

थोरै छन् । जहाँ नीति नियम कार्यान्वयन हुँदैन, त्यहाँ न्याय प्राप्त गर्न कठिन हुन्छ ।

महिला, बालबालिका तथा उत्पीडितहरु न्यायमा पहुँचभन्दा बाहिर रहेको कुरा अधिकांश रिपोर्टहरुले देखाउँछन् । जनसंख्याको ५० प्रतिशत महिला यौन हिंसाबाट पीडित भए पनि उनीहरु न्यायका लागि जाँदैनन् । न्याय भएन भने गरिबी हट्दैन । असमानता र विभेदले विकासमा बाधा पुऱ्याउने हुँदा समुन्नत राष्ट्रको परिकल्पना साकार हुँदैन ।

जनतासमक्ष न्याय पुऱ्याउन जनता केन्द्रित अवधारणा अघि बढाउनुपर्छ । न्याय नपाएकाको आवश्यकानुसार अघि बढ्नुपर्छ । धेरैभन्दा धेरै मानिसलाई न्यायको पहुँचमा पुऱ्याउनुपर्ने आवश्यकता छ । ठूलो क्षेत्रमा एकैपटक हुँदैन, सानो ठाउँबाट शुरुवात गर्नुपर्छ ।

न्यायमा राजनीतिक हस्तक्षेप हुनु हुँदैन । न्याय दिने निकायले स्वतन्त्ररूपमा आफ्नो अधिकार प्रयोग गर्नुपर्छ । न्यायको पहुँच ग्रासरुट लेबलमा पुऱ्याउन विश्वस्तरमा निरन्तर अध्ययन अनुसन्धान भइरहेका हुन्छन् । जनचेतना पहिलो प्राथमिकता हो ।

न्यायमा पहुँच पुग्दा मानिस उत्पादनशील हुन्छ । न्यायमा लगानीको प्रतिफल पनि बढी हुन्छ । यसको समग्र राज्यको उत्पादनमा समेत ठूलो भूमिका हुन्छ । द्वन्द्व कम हुन्छ । लगानीको प्रतिफल पनि प्राप्त हुन्छ र राष्ट्र समृद्ध बन्छ भन्ने अवधारण छ ।

नेपालको न्यायालयको २०७१ देखि २०७७ सरकारी खर्चहेर्दा हरेक साल वृद्धि भएको देखिन्छ तर न्यायको पहुँचमा सबै पुगेको पाइँदैन । न्यायालयमा टोटल बजेटको ०.५८ प्रतिशत छुट्याइएको छ । न्यायमा पहुँच पुऱ्याउन कुल बजेटको ४.७५ प्रतिशत चाहिने अध्ययनले देखाएको छ । नेपालमा प्रतिव्यक्ति न्यायालयमा भएको खर्च हेर्ने हो भने रु.२८२ रुपैयाँ परेको देखिन्छ । आवश्यकता रु.२३२६ देखिन्छ ।

जिज्ञासा

माननीय डा. दीपेन्द्र रोकाया, सदस्य, प्रदेश योजना आयोग, कर्णाली प्रदेश

आधारभूत तहका मानिसलाई कसरी न्याय दिने, उनीहरुले न्याय कसरी पाउनुपर्छ भन्ने कुरा थाहा पाउँ । नागरिकका आवश्यकता तथा उनीहरुलाई मालिक बनाउने ऐनकानुन बनाउनुपर्छ भन्ने सबैको कमिन्टमेन्ट भयो भने अघि बढ्न सकिन्छ भन्ने लाग्छ । संघीयता हाम्रो कर्णाली प्रदेशका लागि चाहिएको थियो । काठमाडौँले कर्णाली चिन्दैन । कर्णालीको पहुँच काठमाडौँमा पुग्दैन । यसर्थ कर्णालीले काठमाडौँ दुर्गम ठान्छ ।

२०२५ सालमा सत्यमोहन जोशी नेतृत्वको अध्ययन टोली सिजा पुग्दा जजौरी कुलोको बारेमा त्यतिबेला शाखाअधिकृत विहारीकृष्ण श्रेष्ठले जुन अनुभव गर्नुभयो त्यो सैद्धान्तीकरण हुँदा उपभोक्ता समितिको कन्सेप्ट विकास भयो ।

यही कन्सेप्ट सामुदायिक वनमा विकास भएर राम्रो भएको छ । अघि पूर्वप्रधानन्यायाधीशज्यूले २०१५ सालदेखि नै कानूनी सहायता व्यवस्था थियो भन्नुभयो तर त्यो कुरा जानकारी छैन ।

अधिकांश पालिकामा महिला उपमेयर वा उपप्रमुख छन् । उनीहरु न्यायमा पहुँच पुऱ्याउन हामीलाई अधिकार छैन भन्छन् । ज्ञानको पनि कमी छ । मेरो मान्छे माथि छ मैले न्याय पाउँछु भन्ने अवस्था जबसम्म रहन्छ तबसम्म हामी न्यायको पहुँच बाहिर हुन्छौँ । कर्णाली प्रदेशमा २९ प्रतिशत मानिस दलित छन् । उनीहरुलाई न्यायमा पहुँच पुऱ्याउन दलित समुदायलाई माथि उठाउने पर्छ ।

अहिले हरेक वडामा एउटा दलित महिलाको सहभागिता हुँदा केही नभए पनि नमस्कार पाएको छु, इज्जत पाएको छु, केही बोल्न सिकेको छु भन्ने भएको छ ।

जनचेता महत्वपूर्ण पाटो हो । संक्रमणकालीन न्यायको कुरामा साँच्चै न्याय दिने वातावरण बनाइनुपर्छ ।

माननीय पूर्ण लोकसम, सदस्य, प्रदेश योजना आयोग, प्रदेश १

न्यायमा पहुँचका सवालमा प्राइभेट सेक्टरको भूमिका विश्वस्तरमा के छ ? र, नेपालमा कसरी गर्न सकिन्छ भन्ने जानकारी पाउन सकिन्छ कि ? खास गरेर फण्डिङको हिसाबमा सरकारी निकाय अन्तर्राष्ट्रिय संस्था, एनजीओ, आइएनजीओहरुले न्यायको पहुँचका लागि लगानी गरेका छन् । नियामक निकायले संस्थागत सामाजिक उत्तरदायित्व अनिवार्य गरेको सन्दर्भमा हामीले यो जस्टिस सेक्टरमा बास्केट फण्ड निर्माण गरेर अगाडि बढाउने विषयमा अध्ययन गरिरहेका छौँ ।

नेपालमा न्याय क्षेत्रका लागि बजेट निकै कम छ । सर्वोच्च अदालतको को पाँच वर्षका रणनीतिक प्लानका लागि ४६ अर्ब रुपैयाँ बजेट आवश्यक छ । सर्वोच्च अदालतको बजेट जम्मा वार्षिक ६ अर्ब हाराहारी छ । अब उसको रणनीति कसरी कार्यान्वयन होला !

चौथो कार्यपत्र प्रस्तुति : "नेपालमा न्यायमा पहुँच गर्न सरकारी कार्यक्रम र पहल"

डा. गोविन्द नेपाल, बोर्ड अफ डाइरेक्टर,
आईएसएसआर र पूर्व सदस्य, राष्ट्रिय
योजना आयोग



मैले प्रस्तुत गर्न खोजेको विषय नेपालमा न्यायमा पहुँचका लागि भएका र संवन्धित कार्यक्रमहरू के के छन् भन्ने हो । नेपालमा मूलभूत रूपमा सरकारी कार्यक्रमबाहेक अन्तर्राष्ट्रिय संस्थाहरूबाट गरेका कार्यक्रमहरूमा युएनडीपीको कार्यक्रम छ, जुन रुल अफ ल र एक्सेस टु जस्टिस सम्बन्धी महत्वपूर्ण देखियो ।

ती कार्यक्रममा सरकारी कार्यालयहरू र गैरसरकारी संस्थाहरू संबद्ध भएको पाइयो । न्यायमा पहुँच हरेक व्यक्तिको अधिकारका लागि आवश्यक छ । अन्यथा अधिकारको प्रयोग हुँदैन । कतिपयले त आर्थिक अभावकै कारण न्याय पाउँदैनन् । कतिपय मुलुकमा जस्टिस सिस्टम नै कमजोर छ । भौगोलिक विकटतामा मानिसहरू न्यायको पहुँच बाहिर रहेका देखिन्छन् । कमजोरका लागि कानूनी सहायता चाहिन्छ । सिभिल सोसाइटी जागरुक हुनुपर्छ ।

न्यायमा पहुँचको सन्दर्भमा नेपालमा यसका दुई वटा आयाम छन् ।

पहिलो, सप्लाई सिस्टमबाट न्याय प्रणालीलाई सुदृढ गर्ने । अर्को, डिमाण्ड सिस्टम सुदृढ गर्ने । ग्रासरूट लेभलमा सबै संस्थाहरूले न्यायका लागि काम गरिरहेका छन् । सबै चरणमा गुणस्तरीय सहयोग चाहिने हुन्छ । यो नभएको देखिन्छ ।

यस विषयमा ISSR ले ९ वटा पालिकामा अध्ययन गरेर एउटा रिपोर्ट तयार गरिएको थियो । अध्ययनअनुसार पहाडी क्षेत्रमा ५७ प्रतिशतले र

तराईमा ८२ प्रतिशतले न्यायको समस्या भोगिरहेका रहेछन् । नागरिकता, सामाजिक विभेद, डिभोर्स, सम्पत्तिको अधिकार, घरेलु हिंसा लगायतका समस्या उनीहरूले भोगिरहेको देखियो ।

न्याय क्षेत्रमा काम गर्ने संघ संस्थाहरूमा लिगल कमिटी, कोर्ट, एनजीओ, आइएनजिओ, नेपाल बार, जिल्ला बारले लगायतले काम गरिरहेको देखिन्छ ।

जनचेतना जगाउने विषयमा कमि देखिएको छ । अध्ययनमा २० प्रतिशतले जनचेतनाको कमी भएको देखाए । स्थानीय तहमा भएका न्यायिक समितिको क्षमता विकासका विषयमा १७ प्रतिशतले कुरा उठाएका थिए । न्यायका क्षेत्रमा स्रोतको कमी भएको कुरा पनि उठेको छ ।

अहिले हामीले सर्भे गरेका क्षेत्रमा फ्री लिगल एड, वैतनिक वकिलको सेवा, एनजीओ र आइएनजीओको कानूनी साक्षरता अभियान सञ्चालन भएको पाइएको छ । नेपाल बार एशोसियसनका कार्यक्रम पनि भएका छन् । अदालती प्रक्रिया सरलीकृत गर्ने प्रक्रिया पनि चलिरहेको पाइयो ।

२०७६ मा सुरु भएको एक्सेस टु जस्टिस कमिसनको वर्क प्लान हेर्दा यसले न्यायका क्षेत्रमा भएको अवरोध हटाउने, एड्रेस गर्ने एक्सन प्लान अघि बढाएको छ ।

न्यायको टारगेट ग्रुपहरूलाई सशक्तीकरण गर्ने, न्यायमा पहुँच वृद्धि गर्ने, स्टेकहोल्डरबीच समन्वय गर्ने र सहजीकरण गर्ने, न्यायमा पहुँचको वृद्धिका लागि इफेक्टिभ सपोर्ट सिस्टम डेभलप गर्ने कुरा त्यहा छ । प्रभावकारी ढंगबाट लिगल एड सर्भिस दिने, अदालतमा सेवाग्राहीमैत्री वातावरण र सोही बमोजिमको पूर्वाधार तयार गर्ने, अदालतको क्यापासिटी डेभलप गर्ने कुराहरू रहेका छन् । यो महत्वपूर्ण कदम हो ।

सरकारी तवरमा १५औँ योजनामा स्वतन्त्र निस्पक्ष, पहुँचयोग्य विश्वसनीय र सक्षम न्यायप्रणाली विकास गर्ने कुरा उल्लेख गरिएको छ । हिंसा र विभेदरहित समाज सिर्जना गर्न न्यायमा पहुँच आवश्यक छ । कानून र नियमावलीको अभाव छ भने सुधार गर्नुपर्छ । जनशक्ति, स्रोत, सङ्गठन पनि आवश्यक पर्छ ।

जिज्ञासा
श्रीमती नितु पोखरेल, प्रोग्राम अफिसर,
अलाएन्स फर सोसियल डाएलग
(Alliance for Social Dialogue)

अहिले कोरोना महामारीको विषयमा जस्टिसको इस्यु छायामा परेको अवस्था छ । यस्तो बेलामा यो कार्यक्रमको उपादेयता निकै महत्वपूर्ण हुन्छ

जस्तो लाग्छ मलाई ।

जस्टिसको कुरा गर्दा लिगल एडको कुरा आयो । कल्याण श्रीमानले जस्टिसलाई कोर्ट मुद्दा मात्र नभएर पूर्णरूपले हेर्नपर्छ भन्नुभयो । मेरो पनि मान्यता त्यही हो । नेपालमा पनि खट्किएको कुरा यही हो । अहिले जस्टिस खालि भाइलेन्सको कुरा हेर्ने अनि प्रहरीमा जाने भन्नेमात्र छ । अझै पनि न्याय नपाएका मानिसहरु छन्, सीमान्तिकृत वर्गहरुले अधिकार पाएका छैनन् । न्याय दिलाउने संस्थासम्म आउनुभन्दा अगाडि अनेक स्टेप छन् । अर्को कुरा, न्यायमा पुहँच र लिगल एड एकदमै जोडिएको कुरा आयो । फ्री लिगल एडको नयाँ पोलिसी आएको छ । यो पहिलेको भन्दा निकै प्रोग्रेसिभ छ ।

सिभिल सोसाइटी अर्गनाइजेसनसँगै सरकारले फ्री लिगल एड सर्भिस, एक्सिस टु जस्टिस सर्भिसस दिँदा कसरी समन्वय गर्न सक्छ । लिगल एडको सर्भिसज दिगो बनाउनुपर्छ । अहिले हेर्ने हो भने अधिकांश विदेशी फण्डिङमा छौं । अल्पविकसित मुलुक भएका कारण उनीहरूसँग डिपेन्डेन्ट हुनुपर्ने बाध्यता छ । नेपालमा एक्सेस टु जस्टिसका लागि प्राइभेट सेक्टरलाई ल्याउनु जरुरी छ । फण्डिङ दिगो बनाउन पनि सोच्नुपर्ने छ । डोनर र सरकारले सिभिल सोसाइटीसँग कसरी सेयर गर्ने भन्ने पनि महत्वपूर्ण छ । सरकार लिगल एड दिन सबै तहमा पुग्न सकेको छैन ।

पाँचौँ कार्यपत्र प्रस्तुति : " विकास साझेदारहरुको नेपालमा न्यायमा पहुँच सम्बन्धी कार्यक्रम र पहल"

श्री टेक टमाटा, पोर्टफोलियो प्रबन्धक, यूएनडीपी नेपाल



पाँच वर्षे रूल अफ ल कार्यक्रम ल्याउन कल्याण श्रीमानको ठूलो भूमिका थियो । मैले पनि यसबाट केही अनुभव बटुलेको थिएँ । कोर्टभित्र आधुनिकताका लागि पञ्चायतकालदेखि लिगल एड सर्भिसको कुरा गर्दै

आए पनि कार्यान्वयन भएन । लिगल एडलाई बुझ्ने तरिका र यसको कन्सेप्टको सन्दर्भमा नेपालमा मात्र होइन साउथ एसिया लगायतका थुप्रै देशलाई सिकाउने प्रयास भएको छ ।

म छोटकरीमा युएनडीपीले के गरेको भन्ने कुरा गर्छु । हामीसँग थुप्रै कार्यक्रमहरु छन् । एक्सेस टु जस्टिसलाई लिगल एडसँग र लसँग मात्रै जोडेर हुँदैन । निरपेक्ष तरिकाले मात्र पनि हेर्नुहुँदैन । यसको दायरा एकदमै ब्रोडर छ । यसले रिप्रिजेन्टेसन, गभर्नेन्स, ल, लिगल एड, कोर्ट कम्युनिटी लगायतको कुरा गर्ने भएकाले यसको क्षितिज फराकिलो छ । एक्सेस टु जस्टिसलाई एउटा प्रोजेक्टले सम्बोधन गरिरहन्छ भन्ने सोचाइ राख्नुहुँदैन ।

कानूनी प्रतिनिधित्व उपलब्ध गराएर मात्र लिगल एडको मर्यादा पूरा हुँदैन । यो ठूलो विधिशास्त्र हो । यसैलाई ध्यानमा राखेर एकीकृत कानूनी सहायताको एउटा प्याकेज निर्माण भएको छ ।

न्याय विधिशास्त्र कार्यान्वयन गर्न गराउनमा युएनडीपीको ठूलो भूमिका छ । प्रदेश र स्थानीय स्तरमा लिगल एड सर्भिसका संयन्त्र निर्माण गर्न र जनतालाई जोड्न सकियो भने भने महत्वपूर्ण कन्ट्रिब्युटिन्स प्याकेज हुनेछ ।

दोस्रो कुरा, नेपालको लिगल सिस्टमलाई आधुनिकता दिने र अन्तर्राष्ट्रिय मापदण्ड अनुसार पुर्‍याउने दृष्टिकोणले सिभिल कोर्ट, पेनाल कोर्ट, क्रिमिनल कोर्ट, क्रिमिनल प्रोसिड्युट सेन्टेन्सिङ एक्ट जस्ता संहिताहरु निर्माण गरिएको छ । पहिलेको कानूनले नचिनेका विषयहरु, मानवअधिकारका आचरणहरु एडपट गर्न नसकेका विषयलाई समेत सम्बोधन गर्ने गरी यो संहिता आएको छ । कार्यान्वयनको पाटो जटिल हुनसक्छ ।

कार्यान्वयनमा नेपाल बारको भूमिका के हुन्छ, बारको क्षमता अभिवृद्धि कसरी गर्ने, एटर्नी जनरल अफिसले कसरी काम गर्ने भन्ने जस्टिस सिस्टमको कुरा हुन्छ । विटनेस प्रोटेक्सन, भिक्टिम प्रोटेक्सन आदि कुरा छन् । पुलिसले एफआइआर लिएन भने एटर्नी जनरल अथैत प्रोसिच्युटर अफिसमार्फत हस्तक्षेप प्रणालीका कुराहरु पनि यो संहिताले उजागर गरेको छ ।

हाम्रो संविधानले मानवअधिकारलाई मौलिक अधिकारका रुपमा पहिचान गरेको छ । संविधानले डेमेक्रेटिक, पार्टिसिपेटरी ल मेकिङ प्रोसेसको अनुमान गरेको छ ।

कानून आउनुमात्र सब थोक होइन, कार्यान्वयन हुनुपर्‍यो । यसलाई जीवित बनाउनुपर्‍यो । यसका लागि विभिन्न संयन्त्र निर्माण गर्नुपर्ने हुन्छ । अर्को सप्लाइ साइड मात्र होइन पिपुल सेन्ट्रिक इन्ट्रभेन्सनको आवश्यकता छ ।

नयाँ संविधानले नयाँ परिकल्पना गरे पनि जुडिसियल र लिगल सिस्टमलाई फेडरलाइज्ड गरेन। व्यक्तिगत हिसाबले म दुर्भाग्यपूर्ण भन्छु। संविधानको परिकल्पना बमोजिम न्यायिक समितिलाई स्थापित गर्नु महत्वपूर्ण कुरा हो। यसमा सिभिल सोसाइटीको भूमिका महत्वपूर्ण हुन्छ।

सरकारसँगको सहकार्यमा युएनडीपीले गर्दै आएको कुरा ल अफ डेभलपमेन्टलाई निरपेक्ष रूपमा हेरका छौं। विकासलाई यसले सहयोग गर्दैन, उल्टै क्षति पुऱ्याउँछ भन्ने हिसाबले हेरिएको छ। डेमोक्रेटिक कल्चरको विकास नभएको कारणले पनि हुन सक्छ। हाम्रो बुझाइ, सिकाइ र सोचमा संकीर्णताका कारणले पनि हुन सक्छ।

ल र डिभलपमेन्टबीचको म्याचिङ पत्ता लगाउने संयन्त्र विकास गर्नुपर्ने अवस्था छ। भएका कानूनहरु पनि विकासमैत्री छन् कि छैनन् भन्ने कुराको एक्सरे गर्नुपर्ने रियलाइजेसन यो प्रोजेक्टले गरेको छ।

मानवअधिकारको सम्मान गर्ने कुरामा सरकारको मुख ताकेर मात्र हुँदैन। हामीले पब्लिक—प्राइभेट पार्टनरसिको कुरा गरेका छौं। संविधानले समेत अंगीकार गरेको छ।

बिजनेस सेक्टरले कामदारहरुको मानवअधिकारको उल्लंघन गरेको अवस्थामा कानूनी कोष छ कि छैन, मिडिएसन गर्ने प्राणाली स्थापित गरेको छ कि छैन, लैंगिक मैत्री वातावरण छ कि छैन, भेदभावरहित वातावरण छ कि छैन भन्ने विषय हेर्ने सकिएको छैन।

उदाहरणका लागि भर्खर २० वर्षको महिलाले मास्टर्स गर्छ। प्राइभेट सेक्टरमा काम गर्छ। अर्को वर्ष विहे गर्छ, तेस्रो वर्ष रनिङमा बच्चा जन्मिन्छ। बिदा बस्छ। बिदा सकिँदा उसको जागिर रहँदैन। उसको टेबलमा अर्को मानिस आएको हुन्छ। उसले कम्प्लेन गर्दा यो निजी संस्था हो, यहाँ कुनै ग्यारन्टी हुँदैन भन्ने जवाफ पाउँछ। यसमा पनि कानून छ तर कार्यान्वयन राम्रो छैन।

पिस बिल्डिङ प्रोससमा एक्सिस टु जस्टिस इनहान्स गर्ने सन्दर्भमा पनि प्राइभेट सेक्टरले ठूलो योगदान गर्न सक्छ। लयरहरु कम्पनीहरु हुन्। उनीहरुले पनि योगदान गर्नुपर्छ।

एक्सिस टु जस्टिसमा छुटाउनै नहुने इस्यु ह्युमन राइट्स सर्भिसेस हो। जस्टिस सेक्टर भनेको कोर्ट, क्रिमिनल जस्टिस, फर्मल जस्टिस संयन्त्रमात्र होइन, एनएचआरस पनि हो।

लिगल एड पर्याप्त छ कि छैन भन्नेमा कानून मन्त्रालयले एउटा कुरा बाहिर ल्याएको छ। जहाँ ८७ प्रतिशत मानिस यसप्रति सचेत छैनन्। एजेन्सी तथा

एनजीओहरुले वर्षौंदेखि काम गरिरहेको भए पनि अवस्था यस्तो छ।

अदालत जानु बेकार हो, अदालतले धनीलाई मात्र हेर्छ, खर्चिलो छ, समयको बबार्दीमात्र हो भन्ने धारणा छ। यस विषयमा हामीले पाँच जिल्लामा रिसर्च गरेका थियौं। जहाँ ९९ प्रतिशत संतुष्ट छैनन्। उनीहरु कोर्ट जान नचाहनुका कारण यिनै हुन्। अहिले अदालत त पिपुल सेन्ट्रिक भएको छ। इन्फोभेटिभ तरिकाले कोर्ट अघि बढेको छ। एसएमएसमार्फत, मोबाइल, अनलाइन लगायतबाट तारिख दिन सक्छौं।

गभर्नेन्सको महत्वपूर्ण पाटो रूल अफ ल हो। गुड गभर्नेन्स रूल अफ ल बाट आएको छ। यसमा गभर्मेन्ट, युएन एजेन्सी र डोनरहरुले पनि धेरै ध्यान दिएका छैनन्। कोर्डिनेसन र कोलाबरेसनको समस्या पनि छ। न्यायमा पहुँचका लागि समन्वय महत्वपूर्ण छ। अदालतले निर्णय गरे पनि प्रशासनले सहयोग गरेन भने त्यो निर्णयको काम छैन। मानवअधिकारले निर्णय गर्छ। अदालतले बोलिदएन, वकिलहरुले बोलिदिएनन्, सरकारले वास्ता गरेन भने त्यसको पनि अर्थ रहँदैन।

भिक्टिमलाई प्रयोगशाला बनाउनु हुँदैन। गरिबका लागि वैतनिक र धनीको लागि छुट्टै, यो न्याय होइन। लिगल प्रोसेस, फर्मल जस्टिस, लिगल रिकोर्सको लागि मात्र एक्सिस टु जस्टिस खोजेको होइन।

अर्को महत्वपूर्ण कुरा लिगल इम्प्यावरमेन्ट हो। लिगल इम्प्यावरमेन्ट भनेको लिगल अवरेनेस मात्र होइन। सोसएल इकोनोमिक लाइभ्लीहुडसँग जोड्नुपर्छ। एजुकेसन सिस्टम छ तर विद्यार्थीलाई मोबिलाइज गर्ने प्राणाली बनाउन सकिएको छैन। अदालतकै फर्मल इस्टक्चरभित्र जस्टिस सेक्टर कोर्डिनेसन संयन्त्र बनेको छ तर विना एजेण्डा मिटिङ सकिन्छ। हामीले प्रयास गर्छौं तर जति पावरफुल हुनुपर्छ त्यो हुन सकेको छैन।

अर्को इन्फरमल जस्टिस सिस्टमको कुरा छ। हामीसँग मुखियाले गर्ने खालको मिडिएसन छ। हामी मोर्डनाइज हुनुपर्छ। न्याय कम्तीमा पनि मानवअधिकारको स्ट्यार्डको हुनुपर्छ।

सिभिल सोसाइटी र नेपालका जति पनि एक्टर छौं, सबैले जोइन्टली काम गर्नुपर्छ। खाद्य, स्वास्थ्य सेवालाई एसेन्सियल भन्यौं यसमा विमति छैन तर लिगल सर्भिसलाई भन्न सकेनौं।

सिभिल डकुमेन्टसनलाई हामीले महत्वको ठानेनौं। जनताले नागरिकता पाउनुपर्छ। लिगल सर्भिसलाई एसेन्सियल सर्भिस भनेको भए त्यो प्रोड्यूस गर्ने वातावरण पनि राज्यले उपलब्ध गराउन सक्थ्यो। ओभरसाइट संयन्त्र हामीसँग छैन। लिगल एड सर्भिस दियो तर क्वालिटी भयो कि भएन, यसमा ओभरसाइट संयन्त्रको खाँचो छ।

अब नयाँ तरिकाले सोच्ने बेला आएको छ । नयाँ संविधान आएको छ । सिभिल कोर्ट, क्रिमिनल कोर्ट, नयाँ ल आएका छन् । २१औँ शताब्दी अनुरूप नेपालको कानून प्रणालीलाई इन्ट्रोड्यूस गर्नुपर्छ भन्ने दृष्टिकोणसहित आएका कुराहरु छन् । कतिपय नयाँ कुराहरु पनि छन् । मानिसलाई कैद गरेर क्राइम नियन्त्रण निषेध गर्न सकिन्छ भन्ने दृष्टिकोणबाट माथि उठ्न प्रयास गरिरहेका छौं ।

क्रिमिनल जस्टिसको महत्वपूर्ण पक्ष सेक्युरिटी रूल अफ ल हो तर पुलिससँग हामीले काम गर्न सकेका छैनौं । पुलिसले दर्ता त गर्ला तर इभिडेन्स डकुमेन्टेसन गर्न सकेन भने प्रोसिच्युटरले मात्र केही गर्न सकिँदैन । प्रोसिच्युटरको इम्याचुअर्ड रिपोर्टका आधारमा अदालतले हराइदिन्छ, कुरा सक्तियो ।

अर्को कुरा, ल मेकिङ महत्वपूर्ण हो । ल मेकिङ पिपुल सेन्ट्रिक र रिसर्च बेस हुन सकेको छैन । कानून राम्रा छन् कार्यान्वयन भएका छैनन् । जनताले वाचडग भएर काम गर्न सकेका छैनन् । जबसम्म जनताले च्यालेन्ज र क्लेम गर्न सक्दैन, तबसम्म सरकारले पनि वास्ता गर्दैन । विश्वव्यापी तथ्य यही हो

एक्सिस टु जस्टिसलाई खाली प्रोसेसमा मात्रै नजोडी सारभूत अधिकारसँग पनि जोड्ने गर्नुपर्छ । कानून मन्त्रालयले यस विषयमा थुप्रै काम गर्नुपर्ने आवश्यकता देखिन्छ । जस्टिस सेक्टरसँगको कोर्डिनेसनलाई संस्थागत गरेर लैजानुपर्छ । पोलिसी आइसकेको छ । ऐन आउँछ, ड्राफ्ट भइसकेको छ ।

क्रिमिनल जस्टिस सिस्टमलाई सँगै ल्याएर काम गर्ने प्रणालीको विकास गर्न सकेका छैनौं । हामी पुलिससँग काम गर्न डराउँछौं । खाली कम्युनिटीसँगमात्र काम गर्छौं, यसले मात्र हुँदैन ।

जस्टिस सेक्टरका एक्टरहरुको क्यापासिटी बिल्डिङको कुरा पनि छ । अदालतले बुझेको छ । उसले स्ट्राटेजिक प्लानहरु बनाएको छ । जुडिसियल आउटरिच लगायतका इन्भेष्टिभ कुराहरु बाहिर ल्याएको छ । रिप्रेजेन्टेसनको सवालमा पनि हाम्रो जस्टिस सिस्टम एक्सक्लुसन् फ्रेण्डली छ । यसले समावेशितालाई धेरै सम्बोधन गर्न सकेको छैन । यी सबै विषयलाई सम्बोधन गर्ने हो भने सिस्टममा रिप्रेजेन्टेसन इस्यु ल्याउनै पर्छ ।

जिज्ञासा

श्री केदारनाथ शर्मा, सचिव, आन्तरिक मामिला र कानून मन्त्रालय, गण्डकी प्रदेश

न्यायको पहुँचका विषयमा विगतको तुलनामा धेरै कुरा सुधार भएको छ । नेपालको संविधान बमोजिम कानूनीरूपमा न्यायमा पहुँच पुऱ्याउन कुनै

समस्या छ जस्तो लाग्दैन । भइरहेका कानून संशोधन गर्ने विषयमा सरोकारवाला सबै लाग्नुपर्छ । हामीसँगै स्रोत छैन तर पनि हामीले रिजल्ट दिनुपर्ने अवस्था छ ।

नागरिक जहाँ बस्छ, उसको समस्या त्यही समाधान हुँदा उसको खर्च पनि हुँदैन । समस्या पनि स्थानीय लेभलमै बढी थाहा हुन्छ । लोकल लेभलका न्यायिक कमिटीहरु जनप्रतिनिधिहरुले हस्तक्षेप गरेर क्रिमिनल केश मिलाउनल थालेको अवस्था चाहिँ चिन्ताजनक छ ।

प्रमुख जिल्ला अधिकारी लगायतका निकायले पनि एक्सिस टु जस्टिसको कुरा गर्दा तल्लो तहमा गर्नुपर्ने कुराहरु धेरै कन्ट्रोलमा आउँछन् । नागरिकता दिन घुम्ती शिविर सञ्चालन भए तर न्यायका लागि भएन । पहुँच, स्रोत र समय नभएको नागरिकसम्म नै जाने पो हो कि !

नागरिकले न्याय पाउने विषयमा धेरै ग्याप र ल्याक छ । त्यो ठाउँमा हामी पुग्न सकेका छैनौं । राज्य स्रोत साधनको परिचालन भइरहेको छ भन्छ ।

अन्तिम कार्यपत्र प्रस्तुति : "न्यायको क्षेत्रमा खर्चको आवश्यकता र लगानीको स्थिति"

कोभिड -१९ को समायमा महिला गरीव तथा विपन्न वर्गका निम्ति सरकार र विकासका निम्ति लगानी गर्नेहरुको पहल डा. पद्म प्रसाद खतिवडा, वरिष्ठ अनुसन्धानकर्ता



मेरो प्रस्तुतिको विषय विपन्न वर्ग विषयको अनुसन्धानमा आधारित छ । अनुसन्धान प्रतिवेदन आउन केही समय लाग्नेछ । मस्यौदा तयार भइसकेको छ ।

विपन्न वर्गको न्यायसम्बन्धी कुरा कोभिड-१९ को रेस्पोन्स र सरकारी तथा गैरसरकारी तवरबाट भएको विषयमा केन्द्रित हुनेछु ।

विपन्न वर्गकसलाई भन्ने ?

उत्पीडन र विभेद भोगिरहेका असहाय नागरिकलाई संविधानाले व्याख्या नै

भौगोलिक क्षेत्रका आधारमा पछाडि परेका, पछाडि पारिएका समुदायहरूलाई संविधान र कानूनले व्याख्या गरेका छन् ।

कोभिडको महामारी शुरु भएपछि विपन्न बर्ग कसलाई भन्ने र राहत कसलाई दिने भन्ने कुरा पत्ता लगाउनै गाह्रो भएको छ । जागिरबाट छोड्नुपरेको, दैनिक ज्यालादारीमा काम गर्नेहरूको काम बन्द भएर, लकडाउनले काम बन्द भएर धेरैको रोजीरोटी गुम्यो । कोभिडलाई संवोधन गर्ने हो भने यी सबैलाई विपन्न बर्ग भन्नु पर्छ भन्ने लाग्छ । एउटा जेनेरल कन्डिसन र अर्को कोभिडको कारणले विपन्न हुनुपर्ने अवस्था छ ।

महिला, बच्चा जन्माउने आमा, हिंसामा परेका महिलाहरू, शारीरिक र मानसिकरूपमा शोषणमा पर्ने महिलाहरू डबल मारमा परेको देखिएको छ । उनीहरू झन् बढी विपन्न भएका छन् ।

विपन्न बर्गको लेभल बढ्ने कारण नै असमानता हो । यो असमानता घटाउनुपर्छ भन्ने कुरा विश्वव्यापी अभियान दिगो विकास लक्ष्यमा राखिएको छ । यो कुरा हाम्रो संविधानमा पनि कमिटमेन्ट भएको छ । संविधानको प्रस्तावना र धारा ६० मा यो कुरा छ । धारा ५० मा पनि असमानता घटाउने कुरा छ ।

अर्को महत्वपूर्ण, दिगो विकास लक्ष १६ को कुरा आउँछ । यसले पनि न्यायको पहुँचा विषयमा सम्बोधन गरेको छ सामाजिक न्याय र समावेशिता संवन्धि नीतिको कुरा हाम्रो संविधानको धारा ५१ मा छ । संवैधानिक व्यवस्था र दिगो विकास लक्ष भएका कुराहरू भल्नरेबल ग्रुपलाई संविधान गर्नको लागि भएका छन् ।

पोलिसी र मेकानिजमा संविधान, क्रिमिनल प्यानल कोड २०१७, घरेलु हिंसासम्बन्धी एक्ट, महिला आयोग, दलित आयोग, मुस्लिम आयोग व्यवस्था गरिएको छ । यी सबैले भल्नरेबल ग्रुपको समस्या सम्बोधन गर्ने हो । मौलिक हकमा पनि यो कुराहरू जोडिएका छन् ।

कोभिड रेस्पोन्स बारे भएका गतिविधिहरू

कोभिड रेस्पोन्सका लागि केन्द्रीय निकायमा सीसीएमसी र जिल्ला तहमा र स्थानीय तहमा पनि यस्तै निकाय छन् । सुरुका चरणमा राहत प्याकेजहरू भल्नरेबल ग्रुपले पाए ।

कोभिडको सन्दर्भमा सामाजिक क्षेत्रका कामहरू भल्नरेबल ग्रुप (विपन्न वर्ग)का लागि नै भएका छन् । एनजीओ, आइएनजीओहरूले समाज कल्याण परिषदको स्वीकृतिमा काम गरिरहेका छन् ।

अहिले सम्म १० वटा आइएनजीओले प्रोजेक्ट एग्रिमेन्ट गरेर जम्मा २ अर्ब ५८ करोड खर्च गरेको देखिएको छ । पाइप लाइनमा पनि छ ।

गत साउनयता १२७ वटा एनजिओले ननकोभिडको क्षेत्रमा २ अर्ब ६३ करोड खर्च गर्ने परियोजना छ भने ४८ वटा एनजिओले कोभिडकै क्षेत्रमा खर्च गर्ने गरी १ अर्ब ७२ करोड बजेट देखिन्छ ।

पछिल्ला चार महिना हेर्दा समाज कल्याण परिषदले सामाजिक क्षेत्रको परिचालनको नीतिलाई कोभिडको क्षेत्रमा र भल्नरेबल ग्रुपलाई एड्रेस गर्ने गरी काम भएको छ ।

कोभिडको मारमा परेकाहरूलाई समन्वय गराउने मोडालिटी तयार पारेका छौं । त्यस्तै, ७५३ स्थानीय तहमा सहयोग गर्ने प्रयास गरेका छौं ।

रोजगारी गुमेका मजदुरहरूको दैनिकक जीवनमा गम्भीर असर परेको पाएका छौं । सबैभन्दा मार्जिनलाइज्ड कम्युनिटीमा दलित, मधेशी, मुस्लिम समुदाय छन् । उनीहरूमा मेन्टल हेल्थ डिप्रेसनका घटना, टाइमली उपचार नपाएका घटना यो अध्ययनमा हामीले भेटाएका छौं । गर्भवती महिला पनि मारमा परेको पाइएको छ । कोभिड संक्रमण भएका श्रमिकहरूको रोजीरोटी खोसिएका परिवारका उपचारको पनि समस्या देखिएको छ । क्यान्सर भएका, डायलाइसिस गर्नुपर्ने मिर्गौला रोगी, ब्लड दिइरहनुपर्ने व्यक्तिहरू समस्या परेको पाएका छौं ।

सरकारी तथा गैरसरकारी क्षेत्रका व्यक्तिहरूसँग सल्लाह गर्दा भल्नरेबल ग्रुप पहिचान गर्नमै हामी चुक्यौं भन्ने कुरा छ । उनीहरूको पहिचान गर्न क्वीक रेस्पोन्स गर्नुपर्छ भन्ने हिसाबले पोलिसी रेस्पोन्सको रूपमा राख्न खोजिएको हो

यसमा स्थानीय सरकारलाई नै मोबिलाइज गर्नुपर्ने देखिन्छ । वडाध्यक्षलाई जिम्मेवारी दिएर त्यहाँ कार्यरत कर्मचारीमार्फत यो ग्रुपको पहिचान गर्न सकिन्छ कि भन्ने छ ।

आइएनजीओहरूले क्यास भौचर वितरण गर्न पाएनौं भनेका छन् । यो पाएको भए थुप्रै रिसोर्सेसहरू ल्याउथ्यौं भन्ने कुरा छ । अर्थ मन्त्रालयले क्यास डिस्ट्रिब्युसन गर्ने व्यवस्था गरेको छ । यसलाई व्यावहारिक बनाउन ध्यान दिनुपर्छ कि भन्ने लाग्छ ।

भल्नरेबल ग्रुपलाई प्याकेज वितरण गर्ने मोडालिटी र संयन्त्र बनाउँदा डुप्लिकेशन नहुने कुरालाई सुनिश्चित गरौं ।

जिज्ञासा

श्री उमिदु बागचन, सुदूर पश्चिम मीडिया विकास केन्द्र (एफएमडीसी)

(Far-West Media Development Centre (FMDC), सुदूरपश्चिम प्रदेश)

खासगरी आज धेरै कुराको सिकाइ भएको ठानेको छु । आईएसएसआरले गरेको यो काम हाम्रा लागि उपलब्धिमूलक भयो । न्यायमा पहुँचको सवालमा बनेका कानून राम्रा छन् तर व्यावहारिक पक्ष कमजोर छ । अहिले पनि मानिसले सहजरूपमा न्याय पाउनका पाउन सक्ने अवस्था छैन । काठमाडौँमा व्यावहारिक रूपमा कही प्रयोग पनि भएको छ तर तल्लो तहमा पुगेको छैन ।

अहिले पनि न्यायमा पहुँच पुऱ्याउन डोनर एजेन्सी र आईएनजीओहरूले केही जिल्ला र केही ठाउँमा मात्र ओगटेका मात्र छन् । न्यायमा पहुँच बढाउन कानूनी साक्षरता कम्युनिटी लेभलमा जानुपर्छ । बुझाइ प्रष्ट हुनुपर्छ । सरकारले भत्ता र अन्य सेवा दिने भएपछि नागरिकता बनाउनेको संख्या बढेको छ । सरकारी सेवासुविधाहरू सहजरूपमा पाउने व्यवस्था हुनुपर्छ । केही गैरसरकारी अगुवाहरूले काम गरे पनि उनीहरूको क्रियाशीलता धेरै ठाउँमा छैन । हाम्रो एफएमडीसी संस्थाबाट पनि केही काम गर्दैछौं ।

श्रीमानले रातदिन कुट्या कुट्यै गरिराखेको छ तर कसरी न्याय पाउने भन्ने कुराको ज्ञान छैन ।

हाम्रो परम्परा, हाम्रो संस्कृतिले पनि न्यायलाई वन्चित गरेको छ । श्रीमतीहरूलाई श्रीमानले एक थप्पड हान्दा के फरक पर्छ र, यो दलितलाई हेपे के फरक पर्छ भन्ने मेन्टालिटी छ । यसले कानून कार्यान्वयनमा लागि बाधा गरेको छ । न्यायमा पहुँचका लागि कानूनी साक्षरताक जरुरी छ । कोही पनि न्यायका लागि तडपिन नपरोस्, उजुरी दर्ताका लागि कसैसँग हात जोड्न नपरोस् ।

डा. गोविन्द नेपाल, आईएसएसआर (मोडरेटर)

अहिले यो कार्यक्रममा सहभागी हुनुभएका महानुभावहरू, यहाँहरूको सहभागिताकै कारणले यो कार्यक्रम धेरै उपयोगी रह्यो । यहाँहरूको सहभागिता र प्रस्तुतिले हाम्रा ज्ञानहरूको अन्तर्क्रिया आवश्यक छ । यस्ता कार्यक्रमले हामीलाई पनि ऊर्जा प्रदान गर्छ । आजको उद्देश्य विशेषतः पोलिसी मेकरहरू र डेभलपमेन्ट पार्टनरहरूसँगको अन्तरक्रियाबाट हाम्रा संस्थागत दस्तावेजहरूमा कसरी न्यायमा पहुँचका कुराहरूलाई मेनस्ट्रिमिङ गर्ने भन्ने हो । न्यायमा पहुँच हाम्रो लक्ष्य हो ।

आजको छलफल सार्थक भएको छ । न्यायमा पहुँच के हो, कन्सेप्ट, प्राक्टिस कस्तो छ भन्ने बारेमा डा. नरेन्द्रले प्रस्तुति दिनुभयो । यसमा सहभागीहरू बीच छलफल भयो । यही कन्सेप्टमा अन्तर्राष्ट्रिय अनुभव र प्राक्टिसका विषयमा पूर्वप्रधान न्यायाधीश कल्याण श्रेष्ठ सरले इन्ज्यायफुल प्रस्तुति दिनुभयो, जसबाट एक्सिस टु जस्टिसका धेरै क्षितिजहरू उघ्रेको, अथवा धेरै आयामहरू स्पष्ट भएको छ ।

त्यस्तै डा. रवीन्द्रप्रसाद पाण्डे सरले जस्टिस फल अल को प्रतिवेदनका फाइन्डिङको आधारमा अहिले ग्लोबल सिचुयसन के छ, त्यो सिचुयसनसँग हाम्रा कतिपय मूलभूत कुराले राख्ने तादम्यता तथा नेपालको फाइनाइन्सिङको अवस्थाबारे प्रस्तुति राख्नुभयो ।

टेक टामाटाजीले वास्तवमा युनडीपीले गरेका कार्यक्रम, डेप्लपमेन्ट पार्टनर र उनीहरूका चुनौती लगायतमा प्रस्तुति दिनुभयो ।

त्यसैगरी डा. पद्मप्रसाद खतिवडाले भल्नरेबल ग्रुप आईडिन्टिफिकेसन, कोभिडले थपेको भल्नरेबल ग्रुप, समाज कल्याण परिषदले गर्न खोजेको काम लगायतमा प्रकाश पार्नुभयो ।

ओभरअलमा एक्सेस टु जस्टिसका बारेमा हामीले कन्सेप्टुअल लेभलमा, प्लानिङ, स्ट्राटेजीको लेभलमा हामी अघि नै भए पनि यसलाई लागू गर्ने कुरामा धेरै काम गर्नुपर्ने कुरा छ । हाम्रो माइण्डसेटमा धेरै परिवर्तन गर्नुपर्ने छ । एक्सिस टु जस्टिसका कुरामा पैसा हुनेले क्वालिटी जस्टिस पाउने र पैसा नहुनेले इन्फेरियल जस्टिसमा चित्त बुझाउनु अवस्था हुनुहुँदैन । धनी मानिसले आफूले पे गरेर लिने सर्भिस र एउटा गरिबले फ्रिमा लिने सर्भिस क्वालिटी समान हुनुपर्छ । अधिकार प्राप्त गराउने सर्भिस हुनुपर्छ ।

तपाईंहरूले हाम्रो निम्ता स्वीकार गरेर सक्रिय सहभागी भई महत्वपूर्ण विचार व्यक्त गर्नुभयो । यो हाम्रो सम्पत्तिको रूपमा अभिलेखीकरण गर्छौं । पब्लिस्ट भएपछि तपाईंहरूसमक्ष पनि पुऱ्याउँछौं । धन्यवाद ।

सहभागीहरुको नाम

क्र. स.	नाम	संस्था	फोन नं	ईमेल ठेगाना
१.	डा. गोविन्द नेपाल	बोर्ड अफ डाइरेक्टर, आइएसएआर र पूर्व सदस्य, राष्ट्रिय योजना आयोग, नेपाल	९८५१०८११४५	govindnepal56@gmail.com
२.	श्री नरेश श्रेष्ठ	बोर्ड अफ डाइरेक्टर, आइएसएआर, अध्यक्ष, खबरहब उपाध्यक्ष, नेपाल चेम्बर अफ कमर्स	९८५१०२४६४८	nepalpavilion@gmail.com
३.	डा. रवीन्द्रप्रसाद पाण्डे	बोर्ड अफ डाइरेक्टर, आइएसएआर र पूर्व चियरम्यान, राष्ट्रिय बाणिज्य बैंक	९८५१०१९३९३	raviprapan@gmail.com
४.	सुश्री सन्जु ढकाल	प्रोजेक्ट अफिसर, आइएसएआर	९८४१०२७४४४	sanzu.sd@gmail.com
५.	श्री नितिश लाल श्रेष्ठ	रिसर्च असिस्टेन्ट, आइएसएआर	९८४३७७४८८०	nitishshrestha3@gmail.com
६.	प्रो. डा. पुष्पराज कँडेल	उपाध्यक्ष, राष्ट्रिय योजना आयोग, नेपाल	९८५१०१८००९	prkadel@npc.gov.np
७.	श्रीमान कल्याण श्रेष्ठ	पूर्व प्रधान न्यायाधीश	९८४१३५१७०३	kalyanjee@gmail.com
८.	डा. नरेन्द्रमान श्रेष्ठ	पूर्व कानून सचिव, नेपाल सरकार	९८५१०५४४४०	nm.narendra@gmail.com
९.	श्री टेक टमाटा	पोर्टफोलियो प्रबन्धक, यूएनडीपी नेपाल	९८४१३६८७३५	tek.tamata@undp.org
१०.	डा. पद्म प्रसाद खतिवडा	वरिष्ठ अनुसन्धानकर्ता	९८५१००९५३२	padmapd70@gmail.com
११.	श्री सोम निरौला	प्रोग्राम अफिसर, Alliance for Social Dialogue	९८४१५१९०००	sniroula@asd.org.np
१२.	श्रीमती नितु पोखरेल	प्रोग्राम अफिसर, Alliance for Social Dialogue	९८५१०१८७७३	npokharel@asd.org.np
१३.	श्री केदारनाथ शर्मा	सचिव, आन्तरिक मामिला तथा कानून मन्त्रालय, गण्डकी प्रदेश	९८५६०६७७११	knath678@gmail.com
१४.	श्री यदु नाथ आचार्य	निर्देशक, आर्थिक व्यवस्थापन महाशाखा, राष्ट्रिय योजना आयोग	९८४१५४८७६४	ynacharya77@hotmail.com
१५.	माननीय डा. दीपेन्द्र रोकाया	सदस्य, योजना आयोग, कर्णाली प्रदेश	९८६१०४३१३३	dipendrarokaya@gmail.com
१६.	श्री उमिद बागचन	सुदूर पश्चिम मीडिया विकास केन्द्र (एफएमडीसी) (Far-West Media Development Centre (FMDC), सुदूरपश्चिम प्रदेश		fmdc59@gmail.com
१७.	डा. गिरीधारी शर्मा पौडेल	उपाध्यक्ष, योजना आयोग, गण्डकी प्रदेश	९८५११६०२३७	giridharisp@gmail.com
१८.	श्री गजेन्द्र यादव	उप-सचिव, आर्थिक मामिला तथा योजना मन्त्रालय, प्रदेश १		likeyadavgp@gmail.com
१९.	माननीय पूर्ण लोकसम	सदस्य, योजना आयोग, प्रदेश १		loksom@gmail.com
२०.	श्रीमती अनिता न्यौपाने थपलिया	कार्यकारी अध्यक्ष, कानूनी सहायता र परामर्श केन्द्र (Legal Aid & Consultancy Center)	९८४१८२५२७९	anitathapalia@hotmail.com
२१.	श्री यमलाल भुषाल	सहसचिव, अर्थ मन्त्रालय		
२२.	श्री मोहनराज जोशी			
२३.	माननीय रामचन्द्र ढकाल	सदस्य, योजना आयोग, बागमती प्रदेश		
२४.	श्री यमुना कँडेल			
२५.	श्री लीलाधर तिवारी			
२६.	श्री चिरंजीबी पौडेल	हेटौडा		

ENGLISH TRANSLATION

OPENING REMARKS

**HON. PROF. DR. PUSPA RAJ KANDEL, VICE-CHAIRMAN,
NATIONAL PLANNING COMMISSION, NEPAL**



The issue of access to justice has been raised frequently by the people of the judicial sector; however, we economists are sometimes a little confused about it. In my opinion, this issue is important for the world as well as for Nepal. It seems to bring together the concepts of prosperity, equality and justice.

When there are inequality and discrimination in society, it leads to conflict and conflict leads to unrest and destruction of possibilities of prosperity. Nepal had to endure a long period of armed insurgency and transition to access justice. The constitution, in its preamble, guiding principles and fundamental rights has made the provisions relating to social justice and equality, and the incumbent government and the National Planning Commission have formulated the strategy and policy to establish and ensure independent, fair, accessible, capable, reliable and effective justice system. The issues of justice and security are also included as the indicators of Prosperous Nepal, Happy Nepali.

When I look at this issue, I feel, access to justice should not only be linked to access to courts, but also the socio-economic transformation of the country. The government is implementing the Sustainable Development Goals (SDGs) which include access to justice as well, through plans and budgets. The 15th Five Year Plan aims to increase the International Rule of Law Index from

0.54 to 0.58 and is committed to mobilizing resources for the periodic strategic plans of the Supreme Court and National Human Rights Commission and is serious about reforming the judiciary. The government is ready to study further the relationship and implement the necessary programs. In nutshell, I see that the state is strongly committed on the path to access to justice.

FIRST PRESENTATION ON “ACCESS TO JUSTICE: CONCEPT AND PRACTICE”

**DR. NARENDRA SHRESTHA, FORMER LAW SECRETARY,
GOVERNMENT OF NEPAL**



End of impunity should be the first requirement to maintain peace in the country and to ensure economic development. Access to Justice plays an important role in the country’s economic development.

Access to Justice is regarded as a fundamental principle of the rule of law. In the absence of access to justice, the rights, acts and regulations granted by the Constitution cannot be established in a true sense. Fighting against all sorts of discrimination will be restricted to papers. Even the policymakers will not be accountable in the absence of access to justice. The concept of access to justice also includes the individual’s right to access legal information, legal aid and awareness, access to courts and/or tribunals, alternative dispute resolution mechanisms, legal

reforms and active participation in the law-making process.

Scholars argue that access to justice is a system of justice in which everyone has access to it. Similarly, access to justice is an opportunity for all people to receive equal access to justice irrespective of their economic, social, academic qualifications, and another status. Thus, access to justice refers to the situation when every individual gets equal justice regardless of their caste, gender, socio-economic status, caste religion, etc.

Articles 18, 18(3), 20(10), 24, and 51 of the Constitution of Nepal have provisions relating to access to justice.

Articles 7-9 of UDHR 1948, Article 14 of ICCPR, Article 5 of CEDAW 1979, CERD, CRC, etc. held as prominent international conventions have several provisions relating to access to justice. The convention has the provision of free legal aid to individuals who cannot afford to pay for justice.

Similarly, the Legal Aid Act (1997), National Civil Code(2017), Children's Act (1992), National Civil Procedure Code(2017), National Penal Code(2017), Special Court Act, etc., have also included the provisions relating to the access to justice.

Going through the practices related to access to justice in Nepal, the Supreme Court has ordered the government to initiate the process to establish the juvenile court and make necessary laws to protect the privacy of women, children and people infected with HIV AIDS during the court proceedings.

Likewise, the government has been ordered to arrange for free legal aid and to establish a separate fast-track court to provide justice in cases related to domestic violence. These orders of the court are crucial to enhance access to justice.

In Nepal, the Supreme Court has got an extraordinary power to issue writs of habeas corpus, mandamus, certiorari, quo-warranto, prohibition, etc., and carry out a judicial review for the protection and effective enforcement of fundamental rights. There are seven high courts and 77 district courts in Nepal. The high court hears the appeals made by subordinate district courts.

The district court deals with district cases within its jurisdiction and hears appeals against decisions made by judicial committees at local levels.

Likewise, there are 753 judicial committees. Section 47 of the Local Government Operation Act (2017) has empowered these committees to settle disputes through reconciliation in all types of civil cases. They can conduct hearings on cases of criminal nature punishable by up to one-year imprisonment.

Here are a few international practices for raising funds for access to justice:

Government Grants: In many countries, legal services are provided by the government through the Ministry of Justice. The individuals or entities providing legal services in the United States are found to have affiliated with a network of health care providers.

In countries like India and Nigeria, the private sector and financial institutions allocate a certain percentage of their annual income for grants in priority sectors.

The grant money is spent on agriculture, education, the health sector, etc., and some of it goes to access to justice.

Participation of the business people: Involving the merchants and business people in access to justice, Sierra Leone recently proposed, in its parliament, that some of the proceeds from land investments be placed in the Basket Fund for legal aid and that the money is spent to ensure the access to justice for the affected communities.

Use of Social Impact Bond for legal services: This actually includes the fund generated through public investment and private financing. This amount is offered to any organization that fulfills the assigned task or responsibility on the basis of Payment by Result.

This practice is prevalent in the United Kingdom. The UK has got the Legal Cooperatives which charge members for legal aid. Similarly, European countries like The Netherlands and Germany

have been offering Legal Expenses Insurance. This practice is very popular.

In Bangladesh, the Bangladesh Rural Advancement Committee has a tradition of soliciting donations from individuals and organizations that can provide money for legal aid. People are found donating happily to it.

New Philanthropic Model: In this model, donations received from various individuals and organizations are deposited in the bank and the interest received from them is spent for the purpose of legal aid. This model is prevalent in Pakistan and South Africa. In Nepal, people with below Rs 40,000 annual income are entitled to receive legal aid. There are one Central Legal Aid Committee and 48 District Legal Aid Committees.

The government has allocated a budget of Rs. 17 million for this fiscal year. Many institutions including the Ministry for Women, Children and Senior Citizens, various NGOs and INGOs, National Women Commission, Dalit Commission have been organizing various programs to enhance access to justice, but most of their programs are confined at the province and district headquarters.

Advocates appointed to the District Legal Aid Committee receive as much remuneration as the non-gazetted first-class officer in the government service. Many of them do not get salary on time. People seeking legal aid are often found not getting easy access to government services.

When the budget allocated by the government does not suffice for the access to justice program, the fund can be collected from private sectors under their Corporate Social Responsibility headings.

As practiced in some countries, legal expenses can also be insured. The legal aid should increase the capacity of lawyers who provide free legal aid. The victim and witness women, children and others who have lost their shelter and property due to fighting the legal battle should be protected.

For the effective implementation of the access to justice program, legal assistance should be provided to all 753 local level judicial

committees. The members of the judicial committee should be given capacity building training.

People who require legal aid have to be identified and their data have to be updated. An integrated legal aid fund should be set up at the national level.

The amount in the fund should be used to cover legal fees of the victims, their treatment, rehabilitation center, transportation expenses, the expenses for the witnesses, and to pay compensation in case the victim loses the case, etc.

QUERIES

HON'BLE RAM CHANDRA DHAKAL, MEMBER PROVINCIAL POLICY AND PLANNING COMMISSION, BAGMATI PROVINCE

Our customs, culture, caste, geographical remoteness among many others also contribute to the weak status of access to justice. It is the responsibility of all of us to bring this to the attention of various castes and marginalized groups.

Despite the changes in the structures, the coordination between the three levels of government is not satisfactory yet.

Further efforts should be made to implement the Access to Justice Action Plan more effectively.

MR. KEDAR NATH SHARMA, SECRETARY, MINISTRY OF INTERNAL AFFAIRS AND LAW, GANDAKI PROVINCE

Several things that are done by the prevailing laws have been established as precedents. We are working to formulate a policy on access to justice. The province government has to adopt the policy, rules and regulations made by the Federal Ministry.

We are learning through experience. We made the laws but did not consider the mechanism and implementation. The parliament makes laws, but it does not monitor them.

Even the judiciary does not look after it. Looking at the structure, it seems that federalism has not come to the judiciary. The courts are not under the provinces. We have adopted and exercised federalism politically but the judiciary is still practicing a unitary system. Let the scholars discuss this issue.

MRS. ANITA NEUPANE THAPALIYA, EXECUTIVE CHAIRPERSON, LEGAL AID AND CONSULTANCY CENTRE

Access to justice is vital during such a period of pandemic crisis. Even fundamental rights have to be compromised in such a crisis. The difficulties the women and the children are facing are worse than it. We have been offering free legal aid for the last 34 years. Although access to justice is only a part of legal aid, it is important. It has never got a priority.

There is a budget of Rs 17 million for 77 districts. How many people can get legal help from it! It is important to increase investment in legal aid. Although we have provided legal assistance to more than 50,000 women and children, it is well evaluated by the authority.

SECOND PRESENTATION ON “NATIONAL AND INTERNATIONAL CONTEXT OF ACCESS TO JUSTICE”

HON'BLE KALYAN SHRESTHA, FORMER CHIEF JUSTICE



Access to justice is a perennial and universal issue. Justice is the foundation of a state. A state that denies justice does not remain state anymore. Access to justice is a matter of fundamental concern. But, unfortunately, the number of organizations that advocate for access to justice is just a few. Either the issue is raised by Bar Association or the Court; there is almost nonsense to talk about this matter of prime concern. The Institute for Strategic and Socioeconomic Research (ISSR) has taken an important initiative today. The issue of justice is as vital as health to life. This should not be regarded as a sideline issue. Our constitution speaks of the right to justice. It has ensured free legal services to the helpless and disabled. Despite so many

commitments, access to justice is still in a primitive condition.

If the constitution is not implemented properly or transformed into reality, there is no point in drafting it. Access to justice is a complex, yet serious issue at the international level whether in the United States or the United Kingdom.

The review of the implementation of development projects run by the World Bank in 50 countries, from the point of view of law and development, showed that the cause of the poor performance of the projects in the developing countries is related to poor status of rule of law there.

The research concluded that if the nation's investment for the establishment of rule of law is increased by one percent, it can contribute 4.5 percent to the GDP.

Lately, bankers like the Asian Development Bank and the World Bank have also found valuing high access to justice. In Nepal, it is agreed that the process of taking the case to the court and appointing the lawyers has to be simplified and the lawyer's fee has to be reduced to enhance access to justice.

If we want to link poverty alleviation, development and human rights, we should link it with access to justice.

There should be a further study on poverty and law. The officials are to be reminded about the rights inscribed in the constitution. Not only the poor, the marginalized, socially excluded, children and women have their own experiences. Where is the study about it? We have not surveyed in a way that works for everyone.

The Dalit marginalized are not made the subject of study. When they have no access to justice they will not be able to enjoy the opportunity. One can get justice only when they have access to it. The then Secretary-General of United Nations, Kofi Annan had once said that rule of law is not a luxury, nor is access to justice a sideline issue.

If the rule of law is system deficiency, democracy does not ensure good governance. Under the leadership of the United Nations,

much work has been accomplished in the world.

It was unfortunate that the Millennium Development Goals did not include the rule of law and access to justice in it. Later in September 2015, the General Assembly of UN included access to justice as the 16th goal of the Sustainable Development Goals. It is up to the state to play an affirmative role to ensure justice to all. It means none should be deprived of justice. In other words, it means equal justice for all.

If we look at the issue of international justice, ICCPR declares the right to fair hearing from an independent competent impartial tribunal, equality before the law and trial and public hearing. It says that no one should interfere in the process of justice. A fair process has to be established. The state should fully support the judiciary to fulfill its responsibilities.

Just specifying the rights or making provisions alone does not make transformation possible.

Prosecutors have also been told to afford their dignity. Their code of conduct also hails that they have a responsibility to help the poor and helpless. To conclude, access to justice is an equal opportunity for all to access to justice. It means fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all.

Not only the right to justice, awards, too, have to be distributed to all without discrimination. There is an international notion that the state should help strengthen the judiciary. If we look at our budget, only 0.30 percent is allocated for justice. The UK allocates 4.5 percent for the judiciary. How can we say that we have ample programs for access to justice? The victims cannot even complain of injustice. They do not trust the institutions of justice, neither can they speak and collect evidence. This has created hurdles. Even if the decisions are made they are often not implemented. Although some important decisions were made on transitional justice long ago, they have not been implemented. How many people know about the Constitution? We have made the criminal code and the civil code, but how many people know about them? They have to be informed about it. They should be

made capable enough to claim their rights. Access to justice is not about appointing a lawyer alone.

The blacks are facing a similar problem in the United States. There is the provision of self-representation in New York, there is a separate team of advocates, there is a distinct judge for it, and there are some organizations working on it as well.

These individuals and authorities inform the victims or the justice-seekers of all information they need which makes getting justice easier. To ensure that the service of the court does not seem intimidating and the victims feel no pressure, there is the Justice on Wheels in the Philippines.

Here, in our case, we are thinking of making money by studying law. Access to justice seems an uphill task for many as one has to hire an expensive lawyer by taking loans.

While at the apex court, I made some decisions to make simplify the process to justice. There are many who even cannot write an application to hold the date and there are many making their earning levying a heavy charge for writing on their behalf.

The court has made some samples to help it out. The Bar Association had protested, however, later the lawyers started using it. The witnesses have to reach the court for the hearing, it costs money. Now, the decision that the government should bear the minimum expenses for the witnesses of this category has been implemented. I had made this decision.

There is the provision of a translator/interpreter as well. I had made the arrangement to keep the identity of the rape victims confidential. Many countries do not have such provisions. It is taken as an exemplary provision. In incest cases, the victim may need to fight against the brother or father as well. The victims need a place to live.

In a case in Australia, the judicial authority had got another certificate issued to retain the privacy of the victim and later had settled the person in Canada.

Just imagine how much it could have cost! It all is done to ensure

that justice prevails in all circumstances.

Justice has no monetary value and injustice is costly. It matters how sensitive the state becomes in these issues and whether the state is ready to spend for such a matter or not. The court should not be far away from people's reach.

Transitional Justice has been completely ignored. Denial of justice is a horrible situation. That cannot be imagined. There was public insecurity, intimidation, distrust of judicial institutions and violation of fundamental rights.

Unfortunately, the court's decisions were not implemented in these issues. There are various issues ranging from acknowledging rights, to claiming, to suing, to representing, to making decisions and to implementing decisions.

We have to underline whether we have made enough preparations or not. I am delighted to see some strategies on access to justice in the 15th plan. While setting development goals, one has to look at how much can the rule of law endure it. Our problem so far is that despite the changes in other systems there has been no transformation in the sphere of rule of law. An institution like the National Planning Commission should formulate a master plan for the development of a comprehensive rule of law.

That master plan should include access to justice. Security and human development should also be linked to it. An inefficient population does not support development at all.

When I was the Chief Justice, I had formed the Access to Justice Commission considering these things. They still work on the annual plans. Some work has been done on the Strategic Plan of Judicial Reform under my leadership. Unless there is a budget, there nothing can be done effectively. During the constitution drafting phase, I had requested to include the Access to Justice Commission in the constitution, but in vain. The constitution is promulgated, the acts and laws are also introduced, but they hardly reach the people. We have to develop a system in which the affected population knows about the laws made for them. We should launch judicial outreach programs.

As part of our third five-year plan, we had conducted this program in many villages. In villages, they have a dreadful image of the judges. They do not actually know what the judges do or who they work for. The people of rural areas also should feel that judges are also people like them and they need not be dreaded. The people should be kept at the decisive level, not the leaders or the political parties. The leaders and political parties should work as mandated by the people; they should respect the public concern.

QUERIES

HON. PURNA LOKSOM, MEMBER, PROVINCE PLANNING COMMISSION, PROVINCE 1

The presentation was interesting and enlightening on the issue. It would have been better if its range had been a bit wider. It is said that law without justice is blind. The discussion was about how to include the special class which has no access to justice. I would also like to hear more about the philosophical dimensions in the field of legal aid in Nepal's context. Not only are the human, but even non-human issues are also coming these days. It would have been better if the issues relating to the environment, historical monuments, natural justice and social justice had also been included. In Province 1, we have come up with a long-term vision of 'Clean, Happy and Prosperous Province'. Including access to justice, there are 66 indicators in it. We are working on how to expand access to justice to make it reach the poor, the marginalized and the backward in many ways. Yam Lal Bhusal Joint Secretary It was pleasant to hear Narendra sir and Rt. Honorable Kalyan Shrestha's presentation. As Giridhari sir told, here at the center, we talk about the big issues, however, at local levels, there are many problems even in small things too. There is a problem in the implementation of the laws. It is difficult to give justice immediately. The mechanism to provide free legal aid has to be developed. I benefitted a lot from the discussion. Thank you. Mohan Raj Joshi, I was privileged to hear about access to justice from the experts. Access to justice is one of the fundamental pillars of statehood. When there is a compromise in the justice, the state is weakened and the state has shied away from its responsibilities. The laws did not become effective as it was made without considering the provisions relating to the judicial committee. This may address the issue of effectiveness to some

extent. Despite facing many problems, I think, the judicial committee has closely resolved the general disputes that arise at the local level. There are problems in the judicial committees, yet a lot of works are being done under it. Thank you so much for the opportunity.

HON'BLE KALYAN SHRESTHA, FORMER CHIEF JUSTICE

The issues raised by Purna Lobsang are not minor. The principle of legal aid is implicit in this. Supreme Court started the practice of stipend lawyers in 1958. This is still prevalent. We have got the legal aid committee, some NGOs have supported them as well, yet, there is the problem of institutional effectiveness. The effectiveness of the legal aid cannot be measured unless it is clear how many cases fought with their help turned out successful and what the consumer level is. There are big issues like the ones related to natural resources. This is also related to access to justice. Where will the women service recipients go if they do not get the toilet in the court? It has to be considered as well. A study carried out on the issue, shows that more than 80 percent of the poor do not know about the provision of legal aid. When they do not know about the existence of such a service, how will they receive the service? Law enforcement itself is too fragile. The court will look into the issue only after the dispute arises. The court does not do all works of the law on its own. It is all up to the executives to monitor the overall implementation of the law. One should not make mock of law by making the laws which cannot be enforced. The judicial committee has reached close to the people. However, the decisions made by the committees are influenced by the closeness to the parties rather than considering the legal knowledge, capacity and legal principles. The judicial committee may not have been able to meet the expectations for the same.

THIRD PRESENTATION ON "NEEDS AND FINANCING ON JUSTICE AGENDA IN NEPAL"

DR. RAVINDRA PRASAD PANDEY, MEMBER, BOARD OF DIRECTORS, ISSR



According to the report of Task Force on Justice for All, the gap in access to justice is widening globally. As many as 253 million people of the world are suffering sans justice. There are four million modern slaves and 12 million stateless people in the world. About 1.5 billion people do not have access to justice.

There is the law, but there are only a few who have access to it.

Where policies and rules are not implemented, it is difficult to get justice. The reports show that women, children and the oppressed are beyond the reach of justice.

Although 50 percent of the population of women suffers from sexual violence, they do not go to seek justice. Poverty alleviation is not possible unless there is access to justice. The inequality and discrimination hinder development making the vision of prosperous Nepal a far cry. To enhance people's access to justice, a people-centered modality is a must. The needs of the people who do not have access to justice have to be identified and then addressed. As working on a large scale may not be feasible at first, it should be started from a small space. There should be no political interference in the justice or the delivery of justice. The judiciary should exercise its authority independently. Many studies and researches are ongoing to bring justice to the grassroots level. Public awareness is the first priority in this direction. Access to justice enhances the productive capacity of the people. The return of investment in justice is also higher. It also plays a crucial role to increase the production of the entire state which mitigates the conflicts. Ultimately, the return on investment is obtained and the nation becomes prosperous. If you look at the allotment and government expenditure in the judiciary of Nepal we find the amount increasing every year since 2014/15 to date, yet, the access to justice has not increased as expected.

The judiciary has hardly got more than 0.5 percent. Actually, it has got 0.58 percent of the total budget. The studies show that the judiciary needs 4.75 percent of the total budget of the state.

If we look at the expenditure per capita in the judiciary in Nepal it is merely Rs 282 whereas the requirement is above Rs 2326.

QUERIES

HON'BLE DR. DEEPENDRA ROKAYA MEMBER, PROVINCE PLANNING COMMISSION KARNALI PROVINCE

I have learned how to give justice to the grassroots level. We should make laws and policies so as to make the people take ownership of the laws made by parliament addressing their needs; it is possible if everyone shows commitment to work it out. We needed federalism for Karnali Province. Kathmandu does not recognize Karnali.

Karnali does not have access to Kathmandu, hence, it is considered inaccessible. The concept of Consumer's Committee that evolves during Satya Mohan Joshi's Sinja visit in 1968, has worked effectively in the case of the community forest. Former Chief Justice told us there was the provision of legal aid since 1958, but we did not know.

There are women in the post of Deputy Mayor at most of the local levels. They say that we have no right to access to justice. There is also a lack of knowledge. As long as there is the belief that justice can be accessed only if there is someone in power to facilitate it, we will be out of reach of justice in the true sense. There are 29 percent Dalits in Karnali province. To bring them to access to justice, the Dalit community should be uplifted as well. Though there is merely one Dalit representative in each Ward of the rural municipality that also has made the morale of the Dalit community high.

They feel respected. Public awareness is an important factor. An environment of real justice must be created for transitional justice.

What is the role of the private sector in access to justice in the world? Can we get some ideas on how can we take to it in Nepal?

Actually, the government agencies, international organizations, NGOs and INGOs have been supporting in case of funding. Provided the regulatory body makes corporate social responsibility mandatory, we are working on if we can move forward by creating a basket fund in the justice sector. The budget for the justice sector is very low in Nepal. The five-year strategic plan of the Supreme Court needs Rs 46 billion, but, the total budget of the Supreme Court is around Rs 6 billion annually. We can imagine how the strategy is implemented!

FOURTH PRESENTATION ON "GOVERNMENT PROGRAM AND INITIATIVES ON ACCESS TO JUSTICE IN NEPAL"

PROF. DR. GOVIND NEPAL, MEMBER, BOARD OF DIRECTORS, ISSR



I am trying to present what are the programs related to access to justice in Nepal. Besides the programs launched from the government sector, there is an important program of UNDP which is related to Rule of Law and Enhancement to Justice.

Several government offices and non-governmental organizations are found involved in those programs. Access to justice is essential for everyone's rights. Otherwise, rights cannot be exercised. Often many people do not get justice due to economic hardship.

The justice system itself is very weak. Due to some geographical disadvantages also some people are out of reach of justice. The weak need legal heal. Civil society should be aware of these facts. There are two ways of enhancing access to justice in Nepal: First

strengthen the justice system from the supply system and next, strengthen the demand system. Interestingly, at the grassroots level, all organizations are working for justice. Their efforts need quality support and it is the factor missing in the system to date. ISSR had prepared a report after conducting a study in nine municipalities. The study revealed that 57 percent of people in hills and 82 percent of people in Terai are facing problems in accessing justice. They have faced many problems related to citizenship, social discrimination, divorce, property rights, and domestic violence among many others. Among the organizations working in the field of justice, there are judicial committees, courts, NGOs, INGOs, Nepal Bar, District Bar Association, etc. There is still a lack of public awareness. In the study, 20 percent showed a lack of public awareness. Similarly, 17 percent raised the issue of capacity building of the judicial committees at the local level. Some even talked about the lack of resources in the justice sector.

At the local levels we conducted the survey; we found the programs like free legal aid, paid lawyers, legal literacy campaigns of NGOs and INGOs. There are some programs of the Nepal Bar Association also launched. We found the process of simplifying the court process also underway.

Looking at the work plan of the Access to Justice Commission established in 2019, we find it coming out.

The plan talks about empowering the target group for justice, increasing access to justice, coordinating and facilitating stakeholders and developing effective support mechanisms to increase access to justice.

It has also talked about providing effective legal aid service, creating a beneficiary-friendly environment in the court, preparing the corresponding infrastructure and developing the capacity of the court as well. This is an important step.

On the government's part, if we look at the 15th five-year plan we find it stating that an independent, fair accessible, reliable and capable judiciary will be developed within the plan period.

Access to justice is the prerequisite to a society free of violence and discrimination. There are some lapses or lacking in the part of laws and regulations they should be addressed as well. Manpower, resources, organization are vital for effective implementation of access to justice program.

QUERIES

MRS. NEETU POKHREL, PROGRAM OFFICER, ALLIANCE FOR SOCIAL DIALOGUE

Coronavirus pandemic has shadowed the issue of justice at present. At such a time, such programs become more relevant and important as well. While talking about justice, there came a discussion about legal aid. Like former Chief Justice Kalyan Shrestha, I also believe that justice should be looked into not only as a court case but as a whole. This is what has happened in Nepal. At present justice is related to violence alone and is regarded as an issue to be taken to the police. There are many people who have not received justice; the marginalized have not got their rights as well. There are a number of steps one has to go through prior to reaching the justice system. Next thing is that access to justice and legal aid are closely linked. There is a new policy of free legal aid. This is far more progressive than the previous provisions. How can the government coordinate with civil society organizations when providing free legal aid services, access to justice services has to be explored. Legal aid services should be made sustainable. At present, most of the services are run on foreign funding. As an underdeveloped country, we are dependent to a large extent. So, to help it out, the private sector should also be brought for access to justice programs. We also need to think about making funding sustainable. How donors and governments share with civil society is also important. Currently, the government has not been able to reach all levels to provide legal aid.

FIFTH PRESENTATION ON “PROGRAM AND INITIATIVES ON ACCESS TO JUSTICE IN NEPAL BY DEVELOPMENT FUNDERS”

MR. TEK TAMATA, PORTFOLIO MANAGER, UNDP



Former Chief Justice Kalyan Shrestha had played a significant role in bringing the five-year rule of law program. I had also gained some experience from it. Although there had been talks about the modernization of court and legal aid services since the Panchayat period, it has not been implemented.

In terms of understanding legal aid and the concept of it, the effort here has been a leading effort to many countries in South Asia and beyond. I will briefly talk about the attempts UNDP has made in this regard: We have many programs. Access to justice is not just about legal aid and law. It should be dealt with relatively. It goes wider.

Its horizon is wide as it deals with representation, governance, law, legal aid, court, community, etc. One should not think that a project can address access to justice.

Providing legal representation alone does not fulfill the dignity of legal aid. It is a great jurisprudence. Keeping it in mind, a package of integrated legal aid has been developed. UNDP has played a significant role in enforcing justice. If the legal aid service mechanism is built at the province level and local level and the people are connected to it, it will be an important comprehensive package.

Secondly, many Acts and Codes like Civil Code, Penal Code, Criminal Code, Criminal Procedure, Sentencing Act, etc have been made to modernize Nepal’s legal system and take it to

international standard. The code addresses many issues and human rights practices previously not included in the laws.

The implementation may turn challenging in the beginning. What role Nepal Bar will play in the implementation of these laws, how to increase the capacity of the Bar, and how the Attorney General Office will work are the part of the justice system itself. There are issues of witness protection, victim protection, etc.

The code has also made the provision of the intervention of the Attorney General or Prosecutor’s Office in case the police do not take an FIR. Our Constitution recognizes human rights as fundamental rights. The Constitution envisages a democratic, participatory law-making process. The law is not everything, it has to be implemented.

It has to come alive in practice. This requires the formation of a mechanism. Not only the supply side, but it also needs people-centric intervention. Although the new constitution envisaged a new concept, unfortunately, it did not federalize the judicial and legal system. Yet, it is important to establish a judicial committee as envisaged in the constitution. Civil society can play a vital role in it.

We look at the Law of Development, the issue UNDP has been working on in collaboration with the government, as an integral part of development and justice. However, some think this does not help the development, rather it harms the development process.

This could be due to the lack of development of democratic culture and also due to narrowness in our understanding, learning and thinking as well. There is a need to develop a match-finding mechanism between law and development. This project has come to the realization that the existing laws are not development-friendly and deserve minor scanning.

Respect for human rights is not just about the government and the public. We have talked about the public-private partnership. The constitution has also adopted it. The issues like whether the business sector has a legal fund in case of human rights

violations, or whether it has established a system of mediation, or whether there is a gender-friendly and non-discriminatory environment have not been addressed yet.

For example, a 20-year-old woman completes her Master's Degree. Works in the private sector. Marries next year, gives birth to a child in the third year running. She has to take leave. But when her leave is finished and she wants to join the office, her job is already gone. She finds another man at her table. When she complains, she is told that as it is a private institution there is no guarantee of a job. There is a law to address but the implementation is too weak. The private sector also can play a major role in peacebuilding and enhancing access to the justice process. Lawyers are also companies. They should also contribute. Another important issue to be addressed while talking about access to justice is human rights services.

The justice sector is not merely the court, criminal justice and formal justice mechanism, it is NHRS as well. The Ministry of Law has made up its mind on whether the legal aid is enough or not. Here, 87 percent of people are not aware of the legal aid service. This is despite the fact that agencies and NGOs have been working on it for years.

There is a perception that going to court is useless as the court favors only the rich. People think that the court is expensive and seeking justice there is waste of time. We had conducted research on this issue in five districts. 91 percent of the people are not satisfied with the process. This is the reason why they do not go to court. Now the court has become people-centric. It is moving innovatively. We can give the date in court through SMS, mobile, online, etc whatever is convenient for us. Another important part of governance is rule of law. Good governance comes from the rule of law. The government, UN agencies, and donors have not paid attention to this. There is a problem in coordination and collaboration as well. Coordination is important for access to justice. Even if the court makes a decision, if the administration does not cooperate, the decision has no meaning to the victim. The Human Rights Commission gives a decision, but if the lawyers do not speak and the government mechanisms do not care, the decision does not make any sense.

Victims should not be turned into laboratories. Stipendiary for the poor and separate for the rich can be justice. Access to justice is not sought only for the legal process, formal justice, and legal record. Another important thing is legal empowerment.

Legal empowerment is not just legal awareness; it should be linked to social and economic livelihood. There is an education system but no system has been created to mobilize the students. A justice sector coordination mechanism has been set up within the formal structure of the court but meetings conclude without agendas. We tried but, it could not be as powerful as it should have been. When you talk about the informal justice system, we have the kind of mediation that a Mukhiya does. Justice should be at least the standard of human rights.

No matter how many actors we have in civil society and Nepal, everyone should work jointly. We called food and health care as essentials, but we could not term legal service as essential. We did not consider civil documentation important. People should get citizenship.

If the legal service was called an essential service, the state could have provided an environment for its production. We lack an oversight mechanism. Legal aid service has been provided but an oversight mechanism is necessary to check if quality has been maintained.

Now, it's time to think in a new way. The new constitution has been promulgated. Civil courts and criminal courts and new laws have been enforced. There are things that have surfaced with the view that Nepal's legal system should be introduced in line with the 21st century.

There are also some new things. We are trying to rise above the view that crime can be controlled by imprisoning people. An important aspect of criminal justice is the rule of law, but we have not been able to work with the police. The police may register complaints but if the evidence cannot be documented, the prosecutor alone cannot do anything. The court will rule against based on an immature report by the prosecutor. Lawmaking is important but is not people-centric and research-based.

Laws are good but are not implemented. People have not been able to work as watchdogs. The government will not care for people unless people can challenge and claim. This is the universal fact.

Access to justice should be linked not only to the process but also to the fundamental rights. The Ministry of Law needs to do more in this regard. Coordination with the justice sector should be institutionalized. The policy is here.

The law will be promulgated, the draft has been done. There is also talk of capacity building of actors in the justice sector. The court has understood and has made strategic plans. Innovative things including judicial outreach have been unveiled. Our justice system is also exclusion friendly when it comes to representation. It has not addressed much of inclusion. In order to address all these subjects, representation issues must be brought into the system.

QUERIES

MR. KEDARNATH SHARMA

Access to justice has improved a lot when compared to the past. According to the constitution of Nepal, there does not seem to be any problem in accessing justice legally. All stakeholders should be involved in amending the existing laws. We don't have the resources but we have to give results.

A citizen does not have to spend if his/her problems are solved in the place he/she lives. The problems are better known at the local level. The situation in which the judicial committees at the local levels have started settling criminal cases through interference by people's representatives is worrisome.

The things that need to be done at the lower level come under a lot of control when the Chief District Officer and other bodies talk about access to justice. Mobile camps were set up to grant citizenship but not for justice.

Is it possible to reach citizens who do not have access, resources, and time? There are many gaps and lapses in the issue of citizens getting justice. We have not been able to reach that place. The state says resources are being mobilized.

SIXTH PRESENTATION ON “JUSTICE TO THE VULNERABLE GROUPS (WOMEN, DISABLES, POOR PEOPLE, DALITS) PANDEMIC COVID 19 RESPONSE PLANS OF THE GOVERNMENT AND DEVELOPMENT FUNDERS”

DR. PADAM PRASAD KHATIWADA, SENIOR CONSULTANT



The subject of my presentation is based on research on the issues of the underprivileged. The investigation report will take some time to be readied. The draft has been prepared I will focus on justice to the poor, COVID-19 response, and the governmental and non-governmental issues.

Who falls in the underprivileged class? The constitution has defined it as helpless citizens who are suffering from oppression and discrimination. The constitution and the law define it as children who have lost their parents, conflict victims, displaced and backward places, and backward communities.

It has become difficult to find out who should be called underprivileged class and to who should be relief provided. Many have lost their livelihood as they were rendered jobless by the lockdown.

Women, new mothers, women who have been subjected to violence and women who have been physically and mentally exploited have suffered a double blow. They have become even more poverty-stricken. Inequality is the reason for the increase in poverty-stricken communities. The global campaign for sustainable development aims to reduce this inequality. This has been committed in our constitution as well.

It is stated in the preamble and Article 60 of the constitution. Article 50 also seeks to reduce inequality. Another important issue is that when we talk about goal 16 of sustainable development, it has also addressed the issue of access to justice.

The policy on social justice and inclusion has been adopted in Article 51 of our constitution.

The things related to the constitutional system and the goals of sustainable development have been incorporated to address the vulnerable group.

Constitution, Criminal Panel Code 2017, Domestic Violence Act, Women's Commission, Dalit Commission, and Muslim Commission have been set up as policies and mechanisms. All of this is to address problems of the vulnerable group and these things are also connected to the fundamental right.

ACTIVITIES RELATED TO COVID RESPONSE

There is COVID-19 Crisis Management Center (CCMC) at the center and similar bodies at the local levels. At the initial stage, the relief packages were received by the vulnerable group. The social sector work has been done for the vulnerable group in the context of COVID. NGOs, INGOs are working with the approval of the Social Welfare Council. So far, 10 INGOs have signed project agreements and spent a total of Rs 2.58 billion and some others are also in the pipeline. As of mid-August, 127 NGOs have projects to spend Rs 2.63 billion in the non-COVID sector, while 48 NGOs have a budget of Rs 1.72 billion to be spent in the COVID area.

Over the past four months, the Social Welfare Council has worked to address the social sector mobilization policy in the area of COVID and the vulnerable group. We have developed a modality to coordinate with COVID victims and also tried to provide assistance at 753 local levels. We have found that the daily life of workers who have been rendered jobless has been seriously affected.

The most marginalized communities are Dalit, Madhesi, and Muslim communities. We also discovered cases of depression, cases of not receiving timely treatment. Pregnant women have also been found to be affected. There is also a problem with the treatment of families whose livelihoods have been snatched away as their breadwinners were infected with COVID.

We have found out cancer patients, patients with kidney-related ailments needing regular dialysis, patients that need regular blood transfusion have been hit hard. When we discussed the issue with the people of governmental and non-governmental areas, they accepted that they failed to identify vulnerable groups. It has been tried to present as policy response that quick response should be carried out to identify them.

It seems that the local government should be mobilized. It is assumed that the group can be identified through employees of a local level after assigning the responsibility to the ward chairman. NGOs have said that they have not been able to distribute cash vouchers.

They said that they could have brought more resources if they were allowed to do so. The Ministry of Finance has made arrangements for cash distribution. I think we should pay attention to make it practical. Let's make sure that there is no duplication in the modality and mechanism of package delivery to the vulnerable group.

QUERIES

MR. UMID BAGCHAN

Especially today, I think a lot of things have been learned. This work by ISSR has been an achievement for us. Laws for access to justice are good but their behavioral aspect is weak. Even now, people are not able to get justice easily. It has been more focused in Kathmandu and is not able to reach the grassroots level. Even now, donor agencies and INGOs have incorporated only some districts and some areas to provide access to justice. Legal literacy must reach the community level to increase access to justice.

The number of people applying for citizenship has increased after the government provided allowances and other services. There should be an arrangement for easy access to government services. Although some non-government leaders have worked, they are yet to reach many places. We are also doing some work from our FNC organization.

Women are being beaten by their husbands day and night but they know how to get justice. Our tradition and culture have also deprived us of justice. This has hampered the implementation of the law. Legal literacy is essential for access to justice. No one should have to struggle for justice and no one should have to beg to register a complaint. We got chances to hear the voices of Sudurpaschim.

DR. GOVIND NEPAL, MEMBER, BOARD OF DIRECTORS, ISSR, MODERATOR

This program has been very useful because of the participation of the dignitaries who attended the program. Such programs provide us with energy. Today's aim is to mainstream access to justice in our institutional documents, especially through interactions with policymakers and development partners. Access to justice is our goal. Today's discussion has been meaningful.

Dr. Narendra gave a presentation on what is access to justice, concept, and practice. There was a discussion among the participants.

In the same concept, former Chief Justice Kalyan Shrestha gave an enjoyable presentation on international experience and practice. It expanded many horizons or say many dimensions to access to justice have become opened.

Similarly, Dr. Ravindra Prasad Pandey gave a presentation on the current global situation and the state of financing in Nepal on the basis of the findings of the report of Justice for All.

Tek Tamata gave a presentation on the programs carried by UNDP, development partners, and their challenges.

Similarly, Dr. Padam Prasad Khatiwada highlighted the identification of the vulnerable group, the vulnerable group added by COVID, and the work being done by the Social Welfare Council.

Overall, we are ahead at conceptual, planning, at strategy levels in access to justice. But, there is a lot of work to be done to implement it. We need to change our mindset a lot.

It should be made sure in access to justice that a situation in which those who have money should get quality justice and those who don't should be satisfied with inferior justice don't happen. The quality of service obtained by a rich man and that by a poor for free should be the same. The service should ensure that they will get their rights. You accepted our invitation and actively participated and expressed important views. We archive it as our property. We also bring it to you after it is published.

Thank you.