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## **Nepal: Province No. 2 Decides to go to Court over Centre-State Relations.**

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By Dr. S. Chandrasekharan.

In an unprecedented move, Province No. 2 consisting mainly of the Terai districts has decided to take the legal route in its dispute over the Federal-State Relations.

The Issue relates to the planned merger of the Sagarmatha Development Project with the Timber Corporation of Nepal. The Sagarmatha Development Project is said to be the life line of Province No. 2 and the Federal Government has taken this unilateral step without consulting the State Government.

In another instance, Province No. 2 has warned that it will not accept recruits when the federal Government has gone ahead to recruit directly local employees as this comes in the jurisdiction of the Province.

It is said that the Federal Public Service Commission has already conducted written examinations for the 9161 vacancies as per the notification issued in May this year. The excuse was that the Provincial Government had not come out with the Provincial Public Service Commission Bill in time to fill up the vacancies.

As a counter to this, the Interior and Law Minister of Province No, 2, Gyanendra Yadav said that the province had already passed the Provincial Public Service Commission Bill and will soon start the employee's recruitment process. In the first phase the Province will recruit 5000 employees including 1000 members for the Police Force.

This does not relate to clash of personalities but to the inability of the central leaders to forgo powers that should normally come within the

domain of the Provinces.

The Minister said that the Federal Government is forcing its decision on the provinces which is not acceptable.

The Constitution was promulgated on September 20, 2015. It is now two years since the provincial governments have been in place and yet the Federal Government has made no move to pass “umbrella laws” to enable the provinces to pick up the threads and pass the bills. The reluctance of the federal Government in empowering the provinces under what is provided under the Constitution is not understandable. These very leaders with great fanfare declared in 2015 that Nepal would usher in with a truly federal Constitution with powers devolved to the lowest levels of the administration!

I had in one of the earlier papers in 6334 dated 30<sup>th</sup> April 2019 pointed out that the Provinces particularly Province No. 2 is on a collision course with the Federal Government. There are enough clear provisions in the Constitution in 232, 234 and 235 with on devolution, disputes mechanism etc. Article 232 envisions a relationship of “cooperation, Coexistence and Coordination”. It is sad to see that all the three are lacking in the current relationship between the Federal Government and the Provincial Governments.

There is yet another set of issues which were initiated before the Constitution was promulgated but should now legitimately go to the provinces and local Governments for implementation.

There appears to be no dialogue or interaction and the federal Government appears to be too busy otherwise. I refer to the Grand vision project of SSDP initiated in July 2016 much before the introduction of a federal structure of Governance. The School Sector Development Plan for the fiscal years 2016 to 2023 is a seven year Programme that ensures equitable access to quality education, and lifelong learning for all worked and had been worked out in great detail by Nepal and nine other financing partners that include the ADB, European Union, JICA etc. The local Governments should have been made responsible to implement the SSDP activities though nothing much has been moved. Support is said to be based on result-based financing. Unless the local Administration take ownership of the project, the financial support from other agencies may not be forthcoming!

The whole issue revolves around the Centre’s reluctance to delegate powers to the Provinces. There appears to be no legitimate reason for the Centre to drag its feet. There are no regular dialogues and the provinces particularly Province No. claims that the Federal Government is indifferent in solving any of their problems. The controversial role of the CDO in the districts who is seen more as representative of the Centre to keep an eye on security- related issues by passing the Provincial administration is yet to be solved.

Coming back to the legal route that is proposed to be taken by Province No. 2 against the Federal Government in the case of merger of Sagarmatha Forest development Project with Timber Corporation of Nepal, it is felt by many Analysts that with the Court’ s intervention, the Federal Government may relent and empower the Provinces. It is not going to be that easy. One should see how the Government is

dragging its feet on transitional justice in spite of Supreme Court's landmark judgement.

If the change has to come, it has to be a genuine change of the "mind set" of the leaders at the Federal level which is still not forthcoming.

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