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Teachers' Unions in School Education Governance: Experiences from Post-2000 Nepal

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INTRODUCTION

This chapter explores the political power of teachers' unions in Nepal during the last two decades. I focus on the role played by them in influencing the education-related law amendment process and in providing resistance to education reform efforts. Unions are member-based, politically aware, geographically-spread professional groups. The data for the exact number of teachers' associations formed since the demise of the Panchayat System in 1990 is lacking. However, it has been reported that at least 18 such associations had been established by 2014 (The Kathmandu Post 2014).[1] Unlike

[1] Teachers' associations and their affiliations to the political parties are as follows: Nepal National Teachers' Association (1979, Communist Party of Nepal-Unified Marxist Leninist, CPN-UML); Nepal Teachers' Association (1990, Nepali Congress), Nepal Rastriya Shikshak Parishad (1994, the then Rastriya Prajatantra Party), Nepal Shikshak Manch (1994, the then Nepal Sadbhavana Party), Nepal Revolutionary Teachers' Association (1996, Nepal Majdur Kisan Party), Ekikrit Akhil Nepal Rastriya Shikshak Sangathan (1997, the then Nepal Communist Party-Maoist), Sansthagat Vidyalaya Shikshak Union-Nepal (ISTU, 2004, association formed by teachers affiliated to private

other trade unions, teachers are a politically unionized community (Dharel 2013; Pant 2075 v.s.; Uprety 2020), and it is estimated that around 17,000 teachers are active cadres of various political parties (Biswakarma 2073 v.s.). This is further evidenced by the large number of general members in the two major politically affiliated unions: the Nepal National Teachers' Association (NNTA, Leftist) has more than 70,000 members; the Nepal Teachers' Association (NTA, Democrats) has 83,000 members (Baniya 2074 v.s.; Nepal Shikshak Sangh 2075 v.s.; NRSS 2075 v.s.).[2] Teachers have expanded their organizations from the local (school), provincial to the federal

schools), Madhesi Shikshak Forum Nepal (2008, the then Madhesi Janadhikar Forum), Nepal Loktantrik Shikshak Federation (2012, the then Tarai Madhes Sadbhavana Party), Akhil Nepal Shikshak Sangh (2009, Rastriya Janamorchha), Loktantrik Shikshak Union (2008, Tarai Madhes Loktantrik Party), Madhesi Shikshak Forum (2013, Madhesi Janadhikar Forum-Loktantrik), Shikshak Samaj Nepal (2016, Nayashakti Party), Nepal Shikshak Parishad (2016, Rastriya Prajatantra Party-Nepal), Asthai Shikshak Dabab Sangharsha Samiti (2018), Akhil Nepal Pragatishil Shikshak Sangathan (2012, Maoist-Baidya faction) and Madhesi Adivasi Shikshak Samrakshan Manch, Nepal (2065 v.s., political affiliation not known).

[2] According to the *Flash Report I (2017–2018)* published by the Department of Education, there are 2,38,507 teachers in community schools (grades 1–12) in total. These numbers include all types of teachers, namely, teachers working in approved positions, *Rahat* teachers, PCF teachers and teachers hired by the communities using their own resources (DoE 2018). The definition of *Rahat* teachers: During the Maoist insurgency period (1996–2006), the regular recruitment of teachers had stopped thus creating an acute shortage of teachers in government schools. The government, instead of following the regular mechanism to recruit teachers, took ad hoc measures to provide "relief" to such schools. Through the District Education Offices, the government allowed the School Management Committees (SMCs) to recruit a certain number of teachers whose salary would be covered by the government. Thus a new category of teachers on relief quota, *rahat shikshak*, was created. It is claimed that there are about 40,000 teachers in this category. The definition of PCF teachers: Teachers hired by the SMCs on a contract basis tied to the Per Child Funding (PCF) budget scheme are called PCF teachers. Under this scheme, for every new child enrolled, the school gets a fixed sum of budget from the government. PCF teaching positions remain as long as the school retains the number of students.

levels. And, as unionized groups, they have increasingly been in positions from where they could exercise political power and shape educational governance—both in policy formation and in policy execution—over the last two decades.

As in the United States, France, Canada and India (Kingdon and Muzammil 2003; Moe 2011, 2017; Bascia 2015; Dobbins 2017) unions are powerful actors in Nepal's public education. The politicization of the school teachers is a much-talked about but under-researched phenomenon (Aryal 2017; Biswakarma 2073 v.s.). We lack serious studies on how the unions emerged as a powerful force in the school education system. The existing scholarly writings on school education especially in the policy front have failed to figure out the unions' politics and their influence on educational governance.[3] By presenting specific case studies, I argue that teachers' unions have had more influence on school education governance than any other actors in Nepal since the year 2000. They have played a crucial role in influencing education related reform projects and the law amendment process through their political networks.

In terms of research methods used, this chapter mostly relies on media coverage of school education reform projects and the latest three amendments to the Education Act (Seventh, 2001; Eighth, 2016; and Ninth, 2017). I have analyzed several reports prepared by the World Bank about the Community School Support Project (CSSP 2003–2007). I have also looked at the verbatim reports of the related discussions in the Parliament to analyze how the then parliamentarians discussed the bills to amend the Education Act, what concerns they raised, and their positions about the Act amendment

[3] Scholarly writings on school education in the policy front have well explored how aid agencies have been influencing Nepal's education system (Carney and Bista 2009; Khanal 2010; Bhatta 2011; Rappleye 2011; Regmi 2016, 2021). Most of these writings fail to reveal the unions' influence in the amendment process of the Education Act and other efforts toward education reform.

process. In addition to archival information, I also conducted semi-structured interviews to meet the research objective.[4]

Apart from the introduction and the conclusion, this chapter is divided into three sections. The first section discusses teachers' response to the Education Act (Seventh Amendment) and their severe objection against the implementation of the World Bank funded CSSP. In the second and third sections of the chapter, I will present details of the lobbying and political activities of the teachers' unions with respect to the Eighth and Ninth Amendment processes of the Education Act. This chapter has some limitations. First, there are many differences among teachers' unions in understanding various issues related to school education (such as the degree of privatization of public education, free education, and the medium of teaching and learning, etc). However, I do not cover these differences here. Second, the forming, splitting, and merging of teachers' unions is a common phenomenon after the resumption of the multi-party democratic system in 1990. This chapter also does not cover these splits and mergers. Third, this chapter does not discuss protests by educationists and student unions against provisions in the Ninth Amendment to the Education Act. Such discussions are beyond the scope of this chapter.

TEACHERS' UNIONS, EDUCATION (SEVENTH AMENDMENT) ACT AND THE REFORM PROJECT

Before discussing the unions' objections to the Seventh Amendment of the Education Act, 1971, I will present the historical context for its original making some 50 years ago. In 1971, the then autocratic government introduced the National Education System Plan (NESP) intending "to completely overhaul the entire education system of the

[4] Ten teachers, six head teachers, and seven teachers unions' leaders have been interviewed. All of the interviews were conducted in a free floating way (semi-structured) about the core idea of this research. The interviews were conducted in Kailali, Surkhet, Bardiya, Banke, Nawalparasi, Chitwan, Kathmandu, Kavre, Dhanusha, Saptari, Morang, and Ilam districts between June 2018 and December 2020.

country" (Parajuli 2019: 382). NESP nationalized all community-run education institutions, obtained authority of overall school management from communities, and regulated the schools by a centralized administrative system (Bhatta 2009; Khanal 2012). The Education Act, 1971 was systematically designed to implement the basic premises of this plan. The Act restricted the role of the communities in school management, collapsing a long-established relation between schools and the respective communities in which they were located (Khanal 2012; Parajuli 2019). It was realized later (especially post-2000) that detaching education institutions from their respective communities was a mistake, Therefore, the Seventh Amendment to the Education Act was put forward as an effort to correct the mistake inherent in the NESP.

The Education Act, 1971 is one of the frequently amended acts in the post-1990 period (Bidari 2074 v.s.). It has already been amended five times in the last 30 years.[5] The last three amendments, particularly, (Seventh 2001; Eighth 2016; and Ninth 2017) generated lots of controversies. Public discussions about school education in the last two decades have focused around the causes and consequences of these amendments. Before discussing the unions' objection to the Seventh Amendment to the Education Act in 2001, let me briefly introduce the context of this amendment and the position of the teachers' unions.

In 2001, a report of the High-Level Working Group on Education (HLWGE) led by Nirmal Prasad Pandey recommended renaming all the government funded "public schools" to "community schools." This report had envisioned powerful School Management Committees (SMCs) to operate, supervise and manage the public schools. The primary intention of this report was to decentralize school education management back to the local communities

[5] The Education Act, 1971 was amended as follows: Education (Fifth Amendment) Act, 1992; Education (Sixth Amendment) Act, 1998; Education (Seventh Amendment) Act, 2001; Education (Eighth Amendment) Act, 2016 and Education (Ninth Amendment) Act, 2017.

which would be responsible for the allocation of resources, teachers' recruitment, physical development and maintenance of the schools (Pandey 2058 v.s: 36).[6] Around three weeks after the HLWGE submitted its report to the Nepal government, the World Bank published a similar report on Nepal's education on July 18, 2001. Titled *Priorities and Strategies for Education Reform* (World Bank 2001), this report also emphasized decentralization in educational governance and recommended devolution of school governance and management to local communities. These two reports were crucial policy documents championing the decentralization of school education in Nepal early in the post-2000 period (for further details see Pandey 2058 v.s.; World Bank 2001).

To address recommendations put forth by the HLWGE and the World Bank, the then Parliament amended the Education Act, 1971 in 2001. It was the Seventh Amendment to the Education Act that addressed most of the recommendations stated in both reports by redefining the composition and power of the SMCs in the management of schools (Bhatta 2009). The amended act introduced some structural changes in school governance. One such change was the forming procedure of the SMCs (Parajuli 2007). Unlike the earlier provision whereby SMC members were selected by the District Education Offices (DEOs), the new amended Act provisioned that the chair and a majority of the members of the SMCs would be elected from the parent body of school students (Khanal 2012). The composition of the SMC in the amended Act was as follows: one chair and three members including one woman, to be selected by the parent body from among themselves. Other members of the SMC consisted of the chair of the ward where the school was located, a person nominated from among the founders of the school or donors to the school, and a teacher selected by fellow teachers. The head teacher of the school was positioned as a member secretary of the committee (Nepal Law Commission 2058 v.s.). Furthermore, there was an important

[6] Other members of this all-male group were Mana Prasad Wagle, Shivaraj Lohani, Chumansingh Basnet and Ramsarowar Dube.

provision added in the form of the Village Education Committee which was given the task to supervise and manage schools and coordinate among schools in the local area (Parajuli 2007).

In the amended Act, the SMC was taken as a responsible agency for the allocation and mobilization of resources and for the approval of the annual budget. It was also responsible for the transfer of teachers and for the protection and maintenance of the school property.[7] SMC also became an entity responsible for arranging remuneration and facilities of teachers who were appointed or promoted by the committee. The amended Act also allowed the SMCs to charge fees from students/parents from lower secondary level up and to recruit teachers by mobilizing internal sources (Nepal Law Commission 2058 v.s.). The primary purpose of the amendment was to hand over public schools to the community, and therefore, it renamed all government funded public schools as "community schools" (Ghimire 2064 v.s.a). On the other side, the teachers' unions had opposed this amendment from the very beginning (Kantipur 2058 v.s.). News of teachers agitating against the amended act published in a Kathmandu newspaper in November 2001 helps to understand the tension between the teachers' unions and the state:

> Nearly 150,000 public school teachers are threatening to take to the streets soon. The teachers, organized under the Nepal National Teachers' Association (NNTA) and the Nepal Teachers' Organization (NTO), are unhappy with the Seventh Amendment to the Education Act approved by the House of Representative a month ago, especially the clause that requires them to sit for exams to acquire licenses within five years of implementation of the amendment. Failing to do so would mean losing their jobs. The teachers plan to publish appeals, hold dialogues with parliamentarians and educationists, and wear black bands to work. If the government

[7] The actual transfer of teachers would be done by the DEOs upon the recommendation of the SMCs.

> fails to respond positively, they will organize rallies and sit-in protests at district education offices starting 21 December. The NNTA and the NTO allege that the government is trying to evade its responsibility of providing education, and is encouraging the commercialization of education. (Nepali Times 2001: 3)

When the government began to implement the Act, namely, the handing over of the management of public school to communities across the country, the unions staged a series of protests against some of the clauses/provision of the Act (Khanal 2011; Pherali 2012). For example, the unions began a nationwide protest in early 2007 with a three-point demand, one of which was to "stop the decentralization, especially the empowerment of school committees to hire and fire teachers" (Education International 2007). Against the provision of the handing over of the schools to the communities without consulting the teachers, Keshav Prasad Bhattarai, the then chair of Nepal Teachers' Association later wrote:

> The government did not consult with teachers institutionally even once while preparing the policy and programs of handing over the management of public schools to communities. As imposing any educational policy on teachers without consulting them is itself undemocratic and unacceptable, the teachers did not agree with this decision from the beginning. Moreover, the government minister and senior officials began to say in public that the provisions [in the amendment] were meant to "discipline the teachers"….Such behavior increasingly pitted the teachers against the handover of the schools. (Bhattarai 2064 v.s.)

The main argument of the teachers against the handover of school education management to the communities was that the government was running away from its responsibility for school education

(Baniya 2074 v.s.). Additionally, as mentioned above, after the Act was amended in 2001, the responsibility for hiring teachers was handed over to the SMCs. The teachers were intensely "dissatisfied" with a provision in the Act that gave the DEO the right to transfer teachers serving in the handed over schools at the recommendation of their SMCs (Ghimire 2064 v.s.a).[8] For annulling such provisions, Nepal National Teachers' Association organized street protests all over the country (Paudel 2068 v.s.). Such protests by teachers' unions were reported by a Kathmandu daily newspaper as follows:

> The United Teachers' Struggle Committee protesting with a seven-point demand is set to burn the Education Act and Rules. As most clauses of the Seventh Amendment are regressive, they will be cremated by organizing a funeral procession, said Baburam Adhikari, secretary of Nepal National Teachers' Association. The cremation of the anti-teacher clauses in the Act and Rules will be held on Friday at daytime at Bhugolpark in Kathmandu. The funeral procession of an effigy symbolizing the clauses will begin from Padmodaya Secondary School and will proceed through Exhibition Road, Shahid Gate, New Road Gate, and will end at Bhugolpark, where the effigy will be burned. (Annapurna Post 2060 v.s.: 4)

The teachers also had a serious objection to the provision in the amended Act that allowed the SMCs of handed over schools to recruit teachers by allocating internal resources (Pherali 2012). They also objected to the provision that authorized SMCs to charge fees from students/parents. The teachers called these provisions "regressive."

[8] The Seventh Amendment to the Education Act did not entirely replace the central mechanism for teacher appointment, promotion and transfer; rather it provisioned a parallel system of teacher management—"centralized policy for the teachers appointed by the government in permanent teaching positions, and decentralized policy for the locally appointed teachers by SMCs" (Khanal 2011: 770).

To facilitate the "communitization of the public schools" the then government approved the *Operational Manual for Community-Managed Schools* in August 2002. The *Manual* was an important document that provided "a formal basis for the operation of community managed schools." It also intended "to clarify the roles of various agencies, and to specify the provisions concerning inspection and evaluation of the schools" (Bhatta 2009: 169). In the meantime, the World Bank launched the US$ 5 million funded Community School Support Project (CSSP 2003–2007) to support this process of transferring schools to the local communities. If we carefully analyze the sequence of the events, the idea of "communitization" of public schools came to the forefront when the World Bank launched the CSSP in 2003. Let me discuss the unions' reactions against the World Bank funded CSSP project in brief.

According to the Project Appraisal Document of the World Bank—the transfer of government-funded schools to community management is one of the most concrete and immediate steps the government could take to demonstrate its commitment to changing the way it served the people (World Bank 2003: 4). The World Bank also rationalized the new provision of the school governance by the SMCs. The Bank called it an

> excellent opportunity to make schools directly accountable to the parents—the closest stakeholders of the school. The degree of accountability of SMCs to parents will, however, depend upon the extent to which parents are able to organize themselves and the degree to which they represent all stakeholders in the community. (World Bank 2003: 6)

The CSSP had four components, the largest of which was the "School Support Grant." US$ 3.6 million was allocated for this Grant, which amounted to about 71 percent of the total grant. It provided monetary support (incentive grant) to government schools to shift to community schools. The remaining about 29 percent of the project budget was allocated for scholarships (8.5%), capacity building in

secondary education (12.7%), and monitoring and evaluation (8.1%). The Department of Education, under the Ministry of Education, was chosen as the project's implementing agency (World Bank 2003).

It was widely believed that the policy outlining the transfer of schools to the community was one greatly influenced by the World Bank (see chapter five and six, this volume). Nepal Government bureaucrats, educationists and teacher organizations repeatedly stated that there was a huge donor pressure especially from the World Bank upon the government to transfer the management of the public schools to the local communities (Bhatta 2009; Pherali 2012; Regmi 2016; Bhattarai 2064 v.s.). The Seventh Amendment of the Education Act and the cabinet's subsequent approval of the *Operational Manual for Community-Managed Schools* generated the tension between teachers' unions and the government when it came to handing over of the schools to the communities. Teachers' unions stated that this new provision of school handover was brought to please international donor agencies especially the World Bank (Bhattarai 2064 v.s; Ghimire 2064 v.s.a; Upadhyay 2064 v.s.; Baniya 2074 v.s.).[9]

However, architects of this plan repeatedly stated that the policy aimed at reducing government expenditure and increasing parents' investment in school education (World Bank 2001; Ohashi 2002a, 2002c; Joshi 2064 v.s.). In other words, the plan was forwarded to usher in the privatization of public education without uttering the word "privatization." As evident in several news reports published between November 2007 and January 2008 in the most influential newspaper in Nepal (*Kantipur*), teachers' unions protested all over the country against such "privatization" of public education under the guise of the handover of public schools to the community. Let us look at some examples of such news reports:

[9] In May and June 2002, the then country director of the Nepal office of the World Bank, Ken Ohashi was actively engaged in advocating the school handover policy to the community (see, Ohashi 2002a, 2002b, 2002c). For instance, on June 24, 2002 he wrote an article on reforming education where he stated "HMG has come up with brilliant concept of transferring public school to communities. It is simple, costless and has an enormous reach" (Ohashi 2002c: 6).

> Teachers in Palpa have protested in Tansen on Sunday against the handover of government schools to the community. (Kantipur 2064 v.s.a)

> Disagreeing with the policy of handing over schools to the community, teachers have shut down educational institutions all over the district [of Lamjung] on Friday. They also stopped all educational activities in the district. The educational institutions were shut down at the call of the Nepal Teachers' Union. Activities at the Education Office were also halted throughout the day. (Kantipur 2064 v.s.b)

> In Sankhuwasabha district, 23 schools had already been handed over to the community [by last year]. The District Education Office…said that additional seven schools have been handed over this year. In spite of teachers' associations' stance against allowing schools to be handed over, the Education Office has handed over Janata, Laxmi, Sheela, Ramite, and Siddhadevi primary schools and Bhimsen and Mangaladevi lower secondary schools. (Kantipur 2064 v.s.c)

> [In Khotang] teacher quotas allocated to the handed over schools are to be retracted. The retraction of 88 teacher quotas occurred after the Maoist-supported teachers did not allow the [school] management to be handed over to the community. (Kantipur 2064 v.s.d)

As reported in the above newspaper, there was a strong resistance to the school handover policy in rural areas, especially in the hilly regions, from cadres of the then Communist Party of Nepal (Maoist). Maoist affiliated teachers (students as well) pressed the schools' head teachers and education officials of the DEOs to revoke contracts made by the DEOs with some of the schools in relation to the transfer of school management to the local communities (Khanal 2012). For instance, due to the Maoists' pressure, some schools in Palpa, Gulmi,

and Morang districts even submitted letters requesting that the management be returned to the DEOs (Ghimire 2064 v.s.a).

Even 20 years after the launch of the project through the Seventh Amendment (2001) of the Education Act, 1971 teachers and their professional organizations are not positive toward this policy (Parajuli, Uprety and Gurung 2076 v.s.b). This was evident in our discussions held during September and October 2019—more than a decade after the end of the CSSP—with (former) head teachers and members of teachers' unions (who were serving during the implementation of the CSSP) in Kavre, Bardiya, Chitwan and Morang districts. A former head teacher at a school in Kavre told us that the teachers did not allow the "project to enter the school" despite requests by the then District Education Officer and project personnel. Additionally, he claimed that the school handover policy was against the public interest, as the aim of the CSSP was to discourage government spending on education and to promote "privatization" of public education. In a discussion held in Bardiya, a participant said that teachers' unions' opposition to the project was natural as it was "donor driven." In Chitwan, a former general secretary of the Nepal National Teachers' Association said that the school handover project "failed as teachers' organizations did not support it." A teacher-leader in Biratnagar (in Morang district) revealed that the then Minister of Education and a leader of the CPN-UML, Pradeep Nepal, had told him that "his [the minister's] politics ended" due to his role in handing over schools to the community with the aid of the World Bank.[10] At that time, all of the party-affiliated teachers' associations institutionally protested against the project (Baniya 2074 v.s.).

The leading agency of this idea, the World Bank itself accepted that the project did not succeed as envisioned, as a result of the opposition by teachers' organizations. Its report published in March

[10] This paragraph is based on interviews with Ramesh Poudel (head teacher) in Kavre, Ramakanta Sapkota (union leader) in Chitwan and Dharmananda Kharel (head teacher) in Biratnagar. These interviews were done on various dates during September–October 2019.

2009—*Project Implementation Completion and Results Report*—stated that "CSSP implementation was hampered from the project outset until end 2006 because of the insurgency and was affected throughout the project implementation period by opposition to the reform by teachers' unions" (World Bank 2009: 5). The project had planned to hand over 1,500 schools (10%) to the community in its lifetime. However, only 150 schools were handed over to the community until the end of 2006, one year before the end of the project (World Bank 2009). Moreover, it was claimed that the project could not move ahead as the government began to lose interest in its implementation due to fear of opposition from teachers' unions. The World Bank wrote in the report that although the law was amended, the Government of Nepal was reluctant to implement the reform fearing a backlash from teachers' unions (World Bank 2009).

The *Project Performance Assessment Report* produced by the Independent Evaluation Group of the World Bank also attributed teachers' opposition as the main reason for the project's failure. It further noted that the project, at the beginning, could not correctly envisage possible opposition from teachers' unions and the political situation. Additionally, the assessment report evaluated the Bank performance on the project as follows:

> Overall, Bank performance is rated unsatisfactory. The quality at entry of the project was highly unsatisfactory because there was no evaluation design for the project or risk assessment with respect to the insurgency or the teachers' unions, objectives were poorly articulated, and systemic obstacles had not been identified. (World Bank 2010: 18)

Several scholars and the World Bank acknowledged the fact that the lack of prior consultation with teachers' unions before the implementation of the education reform project was the mistake that eventually caused the failure of the project (Vaux, Smith and Subba 2006; World Bank 2010). The failure of the World Bank

funded reform project on education was one of the indications of the failure of the mainstay of the Seventh Amendment to the Education Act, namely, handover of public school to local communities.[11] The following section presents the role of teachers' unions in the Eighth and Ninth Amendments to the Education Act.

TEACHERS' UNIONS AND EDUCATION (EIGHTH AND NINTH AMENDMENTS) ACT

Opposition to the Seventh Amendment of the Education Act was largely against the provision for the handing over of the management of schools to communities. The subsequent two amendments of the Act were related to the management/tenure of the so-called "temporary" (*asthai*) teachers. As discussed above, immediately after the Seventh Amendment in 2001, representatives of unions called most of the clauses "regressive" and demanded their annulment (Annapurna Post 2060 v.s.: 4). This shows that the public debate for the next amendment began immediately after the Seventh Amendment was done. However, the Eighth Amendment of the Education Act only happened in 2016, some 15 years after the Seventh Amendment. In contrast, the Ninth Amendment occurred after just 16 months of the Eighth Amendment. Notably, these two amendments were made after the promulgation of the new Constitution of Nepal, 2015 in which basic and secondary education fall under the jurisdiction of the local governments (GoN 2015).

[11] One important question has remained unanswered: why were the teachers' unions not able to lobby against the Bill of the Education Act (Seventh Amendment) when it was being discussed in then Parliament? We need further research to answer this question. However, we can suspect that the government in 2001, probably for the first time, deliberately ignored the teachers' opposition to school management handover to local communities. Several respondents have suspected that to manage the ever increasing state security expenditures in dealing with the then Maoist insurgency, the Nepal government wanted to minimize its education-sector expenditure. According to them, the school management handover policy was a tacit strategy to minimize public-sector resources in school education.

Before talking about the Eighth and Ninth Amendments of the Education Act and the role of teachers' unions in the politics of those amendment, I will briefly describe the situation of teacher management in school education in the last two decades. During that period, the management of "temporary" teachers was one of the major problems in school education.[12] This has been acknowledged by all stakeholders, including policy makers, educationalists, teachers' unions, and officials at the Ministry of Education. But there was a sort of "confusion" among all about how to solve this problem permanently. There were some valid reasons for such confusion. First by the year 2015, the total number of temporary teachers in community schools had reached around 26,000 (around 11% of the total number of teachers), almost half of whom had already been teaching for more than a decade (Rajendra Dahal 2074 v.s.).[13] Second, the state was responsible for such an unwanted situation because after the Seventh Amendment in 2001, the Teachers Service Commission (TSC) could not open vacancies for teachers due to a myriad of reasons. This had made the situation more complicated (Lamsal 2074 v.s.). Third, especially after 1998, temporary teachers had propped up the secondary level education in newly upgraded schools in the rural areas (Parajuli, Uprety and Gurung 2076 v.s.a). And finally, in the last decade, the issue of the management of temporary teachers had not just remained an administrative issue for the Ministry of Education but had become an agenda for political

[12] Temporary teachers were those teachers who were "appointed to government positions by the School Management Committee (SMC), but [were] yet to sit or get through the Teachers Service Commission (TSC) selection test" (Khanal 2011: 7). The SMC was a responsible body for the appointment of temporary teachers. Teachers under this category got a full government salary but they did not get the other facilities such as annual increments, provident funds, pensions, promotions or unpaid leave.

[13] This number does not include the about 40,000 *rahat* teachers who are also technically temporary teachers since they have not been recruited after passing the TSC exams. *Rahat* teachers provided moral support to the struggle of temporary teachers discussed in this chapter but were not part of that struggle.

parties. Teachers and their professional organizations had succeeded in transforming this management problem into a political agenda.[14]

The Eighth and Ninth Amendments to the Education Act were mainly focused on the management of temporary teachers (Kunwar 2073 v.s.; Lamsal 2074 v.s.). How did it become possible to amend the Education Act for the eighth and then the ninth times within a short period of about 16 months? In the next sub-section, I briefly discuss how the Eighth Amendment (2016), and even without it being implemented, the Ninth Amendment (2017) came about being.

EDUCATION (EIGHTH AMENDMENT) ACT, 2016

In 1998, a group of temporary teachers began a struggle for their professional well-being by forming the Temporary Teachers' Struggle Central Committee (TTSCC) [Chhetri 2073 v.s.]. To address this committee's demands raised during various stages of its struggle, on December 2, 2004, the Ministry of Education formed a committee under the coordination of the then joint secretary Mahashram Sharma. The Sharma-led committee submitted its report to the then Minister of Education, Bimalendra Nidhi. In the report, the committee recommended that an internal competition be held among temporary teachers who had been recruited by August 5, 2004. Those who succeeded in this competition would qualify as permanent teachers and their years of service as temporary teachers would also be counted in their tenure records. The committee recommended that those who failed to quality would be provided a retirement gratuity along with medical benefits. But the Ministry did not implement these recommendations (Chhetri 2073 v.s.). Subsequently, the temporary teachers intensified their struggle to press the government to implement its agreement with them. On November 24, 2006, a meeting was held between the then Minister of Education and representatives of temporary teachers in the presence of representatives from the major political parties. The meeting

[14] Interview with Nirendra Kunwar, former president of the TTSCC, December 10, 2019.

agreed that the *asthai* (temporary), *rahat*, *pariyojana* and *visthapit* teachers, who had got their appointments by April 23, 2006 and who had been serving since would be allowed to compete for the vacant permanent teacher posts.[15] It was also agreed that their years of service as temporary teachers would be counted if they were successful.

After the political change of 2005-2006, the Nepali Congress affiliated Nepal Teachers' Association and the CPN-UML affiliated Nepal National Teachers' Association demanded that the temporary teachers be made permanent through an internal competition. These two party-affiliated organizations, which had not taken much interest in the demands of the temporary teachers earlier suddenly felt the political compulsion to raise the issue of temporary teachers. They realized that if they did not raise this issue, the CPN-Maoist affiliated All Nepal Teachers' Union would raise it as its main agenda with the "Maoist-ization" of temporary teachers as a consequence.[16] Earlier, on January 16, 2004, Nepal Teachers' Union (NTU) had been formed as an umbrella organization of five organizations including the Nepal Teachers' Association, Nepal National Teachers' Association, and the Nepal National Teachers' Council (Ghimire 2064 v.s.b). Similarly, in 2006–2007, Nepal Shaikshik Ganatantrik Manch was formed at the initiative of the then CPN-Maoist affiliated All Nepal Teachers' Union and it included the teachers' unions that had not been encompassed in the NTU. These two umbrella organizations, the NTU and the Manch led the movement of temporary teachers.

To address the multi-staged struggles organized by the NTU, the Manch and the TTSCC, a twelve-point agreement was reached on October 28, 2009. This agreement was signed between a committee comprising of the then Minister of Education, Ram Chandra

[15] *Pariyojana* teachers were those hired in teaching positions at schools supported by the Basic and Primary Education Project. *Visthapit* teachers included those who had failed the TSC exams given in 2052 v.s. whose results were only published in 2060 v.s. or those teaching in non-permanent positions in 2060 v.s. who lost their jobs to permanent teachers.

[16] Interview with Nirendra Kunwar, former president of the TTSCC, December 10, 2019.

Kushwaha, the then Minister of Federal Affairs, Constituent Assembly, Parliamentary Affairs and Culture, Minendra Rijal and the then Minister of Peace and Reconstruction, Rakam Chemjong and the representatives of teachers' professional organizations including the NTU, Nepal Shaikshik Ganatantrik Manch, Loktantrik Shikshak Union and the Madhesi Teachers' Forum. The new agreement encompassed the previous agreements of giving temporary teachers permanent status through an internal competition and providing retirement perks (equivalent to those given to permanent teachers) to the disqualified temporary teachers. It was also agreed that the amendment bill will be proposed by the first week of February 2010. Moreover, the agreement included the issues related to school staff management, teachers' timely promotion, and teachers' insurance.

After the government did not implement the agreement of October 28, 2009, the teachers again intensified their struggle. Regarding the struggles of teachers' organizations from 2011 to 2015, Tilak Kunwar, the general secretary of Nepal Teachers' Federation, writes:

> Hoping that the [TSC] exams would be held after these many agreements, the teachers began to prepare for them. Unfortunately, the exams were not held. Then we began another guerrilla style struggle. In this phase of our struggle, we took a great risk by locking up the Minister of Education in her own office room. After such pressure, the government reached a 35-point agreement with us on Chaitra 2, 2068 v.s. [March 15, 2012]. The agreement clearly stated, "Regarding temporary teachers, internal competition will be held. The teachers who cannot pass will be provided retirement gratuity, taking into account the number of years they served." Not only that, they will get medical facilities equivalent to those received by permanent teachers as per the rules. After that, we again waited for the exam. Then the government talked about amending the Education Act. We then focused on the Eighth Amendment. In 2071–2072 v.s. (2014–2015) we organized nation-wide protests under the banner of the Nepal

> Teachers' Federation. Our protest had a single agenda, namely, that the Eighth Amendment be done to address the agreements signed in the past. (Kunwar 2074 v.s.: 38–39)

In December 2014, the Nepal Teachers' Federation was formed as an umbrella organization. There were 18 teacher associations in it: nine under the Nepal Shaikshik Ganatantrik Manch, five under the NTU and four under the Madhesi Teachers' Association (The Kathmandu Post 2014). After its formation, the Nepal Teachers' Federation pushed forward the professional demands of the teachers from March 2015. As mentioned by its general secretary Tilak Kunwar, the nation-wide protest led by the Federation played a decisive role in making the Eighth Amendment of the Education Act possible in 2016. The Federation claimed that 27 out of the 37 clauses in the amendment were in favor of teachers (Kunwar 2075 v.s.).

The Eighth Amendment had given temporary teachers two options to choose from: retirement gratuity and medical benefits (colloquially known as "golden handshake") or seeking permanent posts through an internal competition. According to the amendment, temporary teachers who disqualified after taking the TSC exam would not be eligible for the "golden handshake." Additionally, the Eighth Amendment decided that vacant teacher posts would be filled with 51 percent recruitment from open competition and 49 percent from internal competition among the temporary teachers. This provision was considered facilitative for the management of temporary teachers by most stakeholders, including the Federation (Kunwar 2074 v.s.; Wagle 2074 v.s.).

Despite the Eighth Amendment, the then leadership of the Ministry of Education (with late Dhani Ram Paudel as the minister) failed to amend the Education Rules necessary for the implementation of the amended Act (Dahal 2073 v.s.). Meanwhile, in the first week of April 2017, based on the amended Act, the TSC announced applications from temporary teachers for either internal competition exams or for retirement gratuity. About 12,000 temporary teachers applied for the retirement gratuity (Dahal 2075 v.s.). But the internal competition set

for the third week of August 2017 looked uncertain. Citing "incessant rains" as the reason, the Office of the Prime Minister and the Council of Ministers, through the Ministry of Education, directed the TSC to postpone the teachers' exam scheduled for August 26, 2017 to September 24, 2017. Although "incessant rains" was cited for the delay, the exam was actually postponed under the direction of Prime Minister Sher Bahadur Deuba at the request of temporary teachers (Ramji Dahal 2074 v.s.). Why didn't the Deuba-led government move forward with the final management of temporary teachers which the Eighth Amendment had all but resolved? And why did the government proceed with the unexpected Ninth Amendment? Let us seek answers to these questions now.

EDUCATION (NINTH AMENDMENT) ACT, 2017

As mentioned earlier, the Eighth Amendment to the Education Act gave temporary teachers two options to choose from: take an internal exam organized by the TSC or retire with benefits. In essence, this meant that teachers who failed the internal competition exam would get nothing. Some factions of the Nepal Teachers' Federation, especially the NTU, voiced that it would be unjust to send these temporary teachers home empty-handed. Also, there were differences among the temporary teachers themselves in understanding the Eighth Amendment. Although some temporary teachers were ready for the retirement perks, the majority were of the opinion that the teachers who failed the internal competition should still be eligible for the retirement perks with additional benefits.[17] Moreover, the faction unsatisfied with the Eighth Amendment—citing the previous agreement between the Ministry of Education and teachers' representatives that "the temporary teachers who failed in the internal competition would get retirement benefits with medical facilities equivalent to those of permanent teachers"—put

[17] Interview with Nirendra Kunwar, former president of the TTSCC, December 10, 2019.

forward the demand that the provision in the Eighth Amendment be amended (BC 2073 v.s.: 33).

Claiming that the Eighth Amendment created a situation where temporary teachers would be laid off, the TTSCC re-started its agitation from June 29, 2016 (Annapurna Post 2073 v.s.). Additionally, demanding a permanent job, they began hunger strikes—*Amaran Anshan* (fast unto death)—at Bhadrakali in Kathmandu from June 16, 2017. As stated in the website of the World Federation of Teachers Unions, the following short-term and long-term demands were put forwarded by the TTSCC:

Short-term demands:

- The teachers who have been teaching in government school for a long time till now should be provided equal opportunity to be permanent securing 40 marks in the exam.
- Those teachers who do not pass the exam should be provided golden handshake with medicine and treatment package. For the purpose, the government should change the Education Act 2028, Eighth Amendment.

Long-term demands:

- Advertisement for teacher selection should be regularly published and the process should be finished on time.
- The provision of appointing temporary teacher should be stopped.
- Teacher training program should be made effective.
- There should be only one kind of teacher not 17 different types.
- There shouldn't be any discrimination between teachers and other social workers in salaries and facilities. (WFTU 2017)

As a result, a four-point agreement was reached between the agitating temporary teachers, Nepal Teachers' Federation, and a team from the Ministry of Education, in the presence of the then Deputy Prime Minister and Education Minister, Gopal Man Shrestha. The first point of the agreement read:

> The process of the amendment of the Education Act will commence immediately to ensure that temporary teachers get the opportunity to participate in the internal competition, and those who could not succeed in the competition would receive the benefits as provisioned in the Eighth Amendment along with additional medical facilities.[18]

Based on this agreement with the temporary teachers, the Deputy Prime Minister and Minister of Education, Gopal Man Shrestha, registered the Ninth Amendment Bill in the Parliament. The Ninth Amendment had a provision that allowed temporary teachers to take the TSC exams if they wished and be still eligible to get the retirement perks if they disqualified in those exams (Lamsal 2074 v.s.). Similarly, the Ninth Amendment changed the provision in the Eighth Amendment that teachers for vacant posts would be recruited 51 percent from internal competition and 49 percent from open competition, to one that would recruit 75 percent from internal competition and 25 percent from open competition. For such amendment, the temporary teachers had pressurized their "mother" political parties through their teachers' organizations (Sharma 2074 v.s.).

When the Ninth Amendment was tabled in the then Parliament for discussion, opposition grew against it from both within the Parliament and from the streets (Vyavasthapika Samsad 2074 v.s.; Kantipur 2074 v.s.). For instance, a Member of Parliament (MP) Gagan Kumar Thapa said that "it would be wrong to do injustice to students and to school [education] in the name of addressing temporary teachers' demands" (Vyavasthapika Samsad 2074 v.s.: 1903). He even proposed an amendment to reverse the ratio of teachers to be recruited from open and internal competition: 75

[18] Agreement between Temporary Teachers, Nepal Teachers' Federation, and the Education Ministry done on June 23, 2017. Scanned copy of the agreement available at https://ekantipur.com/news/2017/06/23/20170623180918.html; accessed July 18, 2021.

percent from open and 25 percent from internal competition among temporary teachers. Similarly, speaking in the Parliament, another MP Radheshyam Adhikari said it would be "unfortunate" if the Act was amended by the federal Parliament with the purpose of making the temporary teachers into permanent ones any which way since school education had been put under the jurisdiction of local governments in the new 2015 constitution of Nepal. MPs late Rabindra Adhikari, Rameswor Phuyal, Janak Raj Joshi, Shyam Shrestha, and Prem Suwal suggested that the Bill be sent to the Parliamentary Committee for further discussion.

Some MPs said that the proposed amendment to the Education Act was wrong as the Parliament had already passed the Local Government Operation Act, 2074 on the same day which ensured the right of school management, as per the new constitution, to the local governments (GoN 2074 v.s.). For example, MP Radheshyam Adhikari, who is also a legal expert, said:

> The constitution has given the right of school education to the local governments. Today we passed the Local Government Operation Act. What moral basis do we have now, from here, to infringe [on the right of local governments] by changing the Eighth Amendment [to the Education Act] with a Ninth Amendment? Whose rights are we violating? Let's consider. This is not appropriate morally, and not appropriate legally. If we go on doing such things and the Parliament just watches, are we here to be just "rubber stamps"? This is not possible. (Vyavasthapika Samsad 2074 v.s.: 1906)

MP Rabindra Adhikari also voiced that the Ninth Amendment should not be passed by curtailing the rights of the local governments as stipulated in the Local Government Operation Act. Similarly, MP Janak Raj Joshi remarked that such action should not be taken as it would have a "demonstration effect" on other types of temporary staff if the Education Act was amended under the

pressure of temporary teachers (Vyavasthapika Samsad 2074 v.s.). Answering various questions raised by the MPs, the then Deputy Prime Minister and Minister of Education, Gopal Man Shrestha, replied that the amendment bill was presented to the Parliament according to previous agreements reached between the government and teachers' unions:

> The government has made agreements many times in the past with teachers' associations/unions for resolving the issue of management of teachers. To solve this issue, we jointly passed the Eighth Amendment. During the implementation of this amendment, temporary teachers went on fast unto death after the announcement of teachers' exam for making them permanent, saying that it has not done justice to them. Taking this situation into consideration, and with the objective of solving the longstanding problem of the management of teachers, we all know that the government has presented the Ninth Amendment to the Education Act 2028 to this respected Parliament. (Vyavasthapika Samsad 2074 v.s.: 1909)

A careful analysis of the discussions in the Parliament shows that MPs of both the ruling (Gagan Thapa, Radheshyam Adhikari) and opposition parties were against the amendment. Among the 10 MPs who were involved in the discussion, only two had supported the Ninth Amendment.[19] Although 37 notices for revision were registered, most of the MPs who proposed such revisions did not present themselves for the discussion (Vyavasthapika Samsad 2074 v.s.). Subsequently, the Education Act Ninth Amendment was passed by the Parliament on September 19, 2017. Interestingly, the Act was

[19] The ten MPs were Rabindra Adhikari, Radheshyam Adhikari, Geeta Chhetri, Janakraj Joshi, Bikash Lamsal, Gauri Kumari Oli, Rameshwor Phuyal, Shyam Shrestha, Prem Suwal, and Gagan Kumar Thapa. Among them only Oli and Chhetri from the Madhesi Janadhikar Forum-Loktantrik party supported the bill.

amended by only 26 percent of the full House (among the 601 MPs, only 156 members were present in the House on that day). It was reported that the bill was deliberately tabled in the Parliament in the absence of a large number of lawmakers (Aryal 2017b). After the passing of the Ninth Amendment to the Education Act by the then Parliament, a group of educationalists appealed to the President Bidyadevi Bhandari, asking her not to endorse the Act (Kantipur 2074 v.s.). Similarly, student organizations also protested demanding the annulment of the Ninth Amendment. However, amid these protests, President Bhandari endorsed the amendment on October 23, 2017, about six months after it was passed by the Parliament. The Ninth Amendment became effective thus.

CONCLUSION

Teachers' unions are central players in the politics of education globally (Kingdon and Muzammil 2003; Govender 2008; Moe 2011, 2017; Hicock 2014; Bascia 2015) and Nepal is not an exception. From the discussion and analysis done above, some preliminary conclusions can be drawn regarding the governance of public education in Nepal. First, teachers' unions have more influence on the governance of school education than any other actors in post-2000 Nepal. They are involved in politically driven activities such as agitations, strikes and protests to fulfill their demands. They were strong in intervening in the process of amending the Education Act (especially the Eighth and Ninth Amendments) to fulfill their demands. In addition, teachers' unions are/were not positive toward the education reform projects funded by external aid agencies.

Second, teachers' unions are probably the strongest organized professional groups in Nepal as they have networks all over country, are linked with one or the other political party, and are guided by various political ideologies (Poudyal 2015; Adhikari, Browan and Klonsky 2016). Moreover, politicians who were either teachers or had background in teachers' organizations are well represented in political parties and the (federal) Parliament. This chapter clearly

indicates that there is a solid nexus between teachers' unions and political parties. Without understanding this nexus, it is impossible to grasp the real problem of governance in Nepal's school education. Furthermore, major political parties in Nepal were/are aware of the strength of teachers and their networks. Therefore, they could not ignore demands put forward by the various teachers' unions. Probably due to these reasons, the teachers were successful in getting the Ninth Amendment to the Education Act passed from the Parliament with provisions that they wanted.

Third, the increasing influence of associations established for professional rights and well-being does not necessarily mean that they will automatically serve the "public interest." The latest amendments to the Education Act are examples of how influential professional associations, in the name of advancing the professional rights or well-being of their members, may eclipse issues of public welfare that have long-term impact (such as school education reform). By analyzing amendments to the Education Act and observing the process of such amendments, it can be argued that these amendments are an example of "policy corruption" in the school education sector jointly committed by the political leadership, the professional associations and the state. Therefore, this chapter concludes that corruption in the public sector (such as education and health) should not be understood in a limited sense of monetary extortion or abuse of legal authority. It should instead be also understood as irregularities enacted through amendments to policies and laws.

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