

**Issues Concerning the Disabled (Physically and Mentally Challenged)
People in Reference to the New Constitution of Federal Nepal**

Presented to:

Constituent Assembly Secretariat, Singh Durbar, Kathmandu

Presented by:

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Introduction:

Nepal Disabled Human Rights Centre has been actively working as a non-governmental organization (NGO) for the last nine years catering to the issues of the human rights concerning the people with disabilities. This organization has been advocating for the human right issues of the people with disabilities through skill development, mass media and networking. Besides, the Centre has been actively assisting the state in drafting the new constitution through election observation of the Constituent Assembly polls and similar other activities.

In this regard, Nepal Disabled Human Rights Centre is actively involved to include the issues of the people with disabilities in the constitution being drafted anew. For this, the Centre has collected the issues of the people with disabilities working in different fields and has tried to present the same in a duly legalized form to the Constituent Assembly Secretariat as the first draft.

Condition:

It is estimated that Nepal is a house for 2.4 million disabled people. For centuries, they are denied full access to basic issues like education, health, employment, rehabilitation and so on. It won't be an exaggeration to say that the people with disabilities have no say on the level of policy making and decision process. It is very much evidenced by sheer 3 the people with disabilities getting nominated for the first time to the Constituent Assembly comprising 601 members.

Why Should the New Constitution Include the Issues of the Disabled?

The issues of the physically the people with disabilities should be compulsorily included with due priority in the constitution being newly drafted in order to create opportunities for equal participation in all the state structures so that the centuries-long discrimination is uprooted and even the physically the people with disabilities can lead a life of self-respect and grace.

Why Should there be the Concept of Legal Drama?

The concept of this drama was pioneered by Augustoboyle of Brazil. He believed in ending all sorts of discrimination existing in the society and thus creating an ideal society. He is found to have worked in different stages in order to troubleshoot the local conflicts. One of the ways is staging "Court Drama" (Kachahari Natak). It is regarded as the pioneering stage of the legal drama. Through drama, Boyle grew up in an impressive personality and finally became a parliamentarian of his country. He experimented with Legal stage a little later. Then, that is in 1992, he was elected as one of the 42 parliamentarians from Rio de Janeiro (a city of Brazil); he represented a workers' party. Afterwards, he managed to get sanctioned some amount for 5 fulltime and 10 part-time court stage people. They established 50 theatres throughout the city, including 19

permanent and 31 temporary ones all for the oppressed people. Every group consisted of a stage director who led the group in court methods and worked as a mediator during public shows.

While staging the court dramas, Boyle got a draft prepared with the help of his co-worker advocates (lawyers). He proposed 20 laws thus prepared to the City Council of which 13 were approved. It added a new dimension while preparing a draft of the laws. Boyle recalls this experience in the following words: This was a stage, still it opened ample avenues of possibilities, and made it possible to form laws through stage. Not a political stage, but a stage in political form. Even to date, he has been staging legal dramas without involving law makers. The practice has been picked up globally.

In our context, this strategy is equally practicable. That is, Nepal is a fertile land for such dramas as people here have vivid experiences and diverse races, languages, religions and cultures and most of them are unable to read and write. Moreover, the society views the people with disabilities in a prohibitory way. In this situation, we feel that the general people might feel it difficult to grapple with tall talks, wordy documents and complex words. Drama, in this context, has since antiquity been regarded as an original means of expression in our society. Therefore, we selected legal stage as we believed that Boyle's use of it would be effective for us as well. We were further encouraged by the large audience and their participation. We plan to work throughout the year to promote the issues of the people with disabilities in every stage of constitution drafting.

Process of Discussion with a Synopsis of the Story:

The people with disabilities can also work as the able ones. Programmes are being held to arouse awareness that they are both culturally and politically able. People affected with all kinds of disability are singing songs. A physically challenged girl (sister) is dancing. Suddenly, her elder brother comes upstage and calls her names and takes her home while she is crying.

The second scene expresses the idea that all the people with disabilities should work and move ahead collectively to insure their rights and privileges. In yet another scene, they are seen being abused by the drivers of the public transport just because of their disability. Then they realize that they can feel strong only when they move ahead together. Meanwhile, the government has issued a public notice asking people to suggest issues that should be included in the constitution being newly drafted on the basis of different castes, classes, creeds and sexes. When the team collecting suggestions reach a village, the able people show their highhandedness by objecting to the exposure of the people with disabilities as stigmatic to themselves and thus saying that the people with disabilities do not need any constitution, they cannot do anything, and so on. The next scene shows the government recently issuing a notice about offering allowances to the people with disabilities and asking all of them to contact the authority concerned. But here also only three the people with disabilities from every VDC can access the quota. Therefore, the cleverer ones approach the authority and avail of the given quota far earlier than the other fellow disabled. One of them is sightless, who is a law student.

Another fellow is deaf, who works in a social organization. The third one has minor physical disability, who can easily express his feelings and has some familiarity with the person distributing allowances. As the latter (staff) concludes his monthly work, there comes a disabled girl in her slow pace. She asserts her right to get allowances. She has far severe disability than the earlier guys. Listening to her, the officer concerned says that all allowances have been distributed. But the girl reiterates, “Sir, I haven’t taken mine, what should I do now?” The officer shows his ignorance saying that he distributed allowances to the said number of people. He rather asks the girl to consult the agency concerned. She gets confused and the play ends. The stage director appears then and asks the audience:

Stage Director: Should this girl get her allowances or not?

All the Audience: She should.

Stage Director: You just saw her being denied her allowances. So what should she do next?

All the audience start babbling.

Then the Stage Director says: This is just an example of the discrimination meted out to the people with disabilities in the society. Such discrimination is ubiquitous (all-pervasive)—in the schools, campuses, offices, villages, cities, at home, everywhere—Is it good?

Audience: No, it’s not.

Stage Director: You know and feel that it’s not good. Now a new constitution is being drafted in the country. What should be included therein so that all the people with disabilities get justice or they feel that it is our constitution, and we are also equipped with laws?

Our volunteers will come to you with a pen and notebook. Please forward your suggestions through them. Then the audience provided following suggestions regarding the issues that should be included in the upcoming constitution:

The suggestions provided for the constitution drafting are kept in a column as they are whereas another column consists of the brief legal documentation of the same prepared by the Centre in accordance with the agenda provided by the Constitution Drafting Committee.

Issue-based Committee	Participants’ Suggestions	Brief Documentation Prepared by the Nepal Disabled Human Rights Centre

<p>1. Fundamental Rights and Directive Principle Committee</p>	<ul style="list-style-type: none"> ▪ They should be able to live as respectfully as the able ones. ▪ The government should take responsibility for their food, cloth, and home. ▪ It should assure access to education, health, jobs, etc. ▪ They should have a right to live independently. ▪ They should be provided education like the able ones. ▪ They should be provided reservation. ▪ They shall not be discriminated. ▪ Their rights should be ensured in the upcoming constitution. ▪ There should be no discrimination between the able and disabled ones. ▪ They should be provided constitutional reservation for jobs. ▪ They should be guaranteed for food, cloth, and home. ▪ They should be given free education up to higher level. ▪ The constitution should provide a right to education. ▪ There must be a provision for medical treatment. ▪ They should have a right to 	<ol style="list-style-type: none"> 1. No citizen shall be discriminated on account of religion, caste, class, sex and disability. 2. The state shall give full guarantee of education, health, employment and social security to the disabled people. 3. The state shall give full guarantee of reproductive health to the disabled women. 4. Any discrimination owing to disability shall be regarded as illegal. 5. There shall be a guarantee of rights to education, health and entertainment by the disabled children. 6. The state shall protect and provide the basic rights of the people with disabilities to use their accessories, Braille and code language. 7. The state shall provide the extremely the people with disabilities with accessories as their basic right. <p>The directive principles of the state:</p> <ol style="list-style-type: none"> 1. The state shall make
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	<p>respectful treatment.</p> <ul style="list-style-type: none"> ▪ Their basic rights should be preserved. 	<p>special arrangement for the education, health and employment for the people with disabilities and thus ensure their equal participation in national development.</p>
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	<ul style="list-style-type: none"> ▪ The constitution should be such as to make the disabled feel that they are equipped with rights. ▪ There should be a mandatory provision of the representation of the disabled as well at all levels of the society. ▪ The basic rights should clearly mention about the social equality of the disabled. ▪ Education, health and employment as well as training for their skill development should be established as their basic rights. ▪ The constitution should provide the people with disabilities with all civic rights like the able ones. ▪ The constitution should not be drafted in a way to make any discrimination between the able and disabled ones. ▪ The provision for food, cloth and home. ▪ The provision for free education. ▪ Equal treatment to the disabled as the able ones. ▪ They should be provided due opportunities as per their qualification rather than providing 	<p>2. The state shall guarantee to make all physical structures as disabled-friendly. It shall also establish a trust fund for those disabled who are orphan, helpless and without any guardian as well as safe accommodation and thus guarantee for the ensured accommodation.</p> <p>3. The state shall implement a policy of positive discrimination for the protection of economic, social, cultural, educational and employment rights of the disabled.</p> <p>4. The state shall provide disability allowance to all the people with disabilities in order to guarantee their social security and sustenance.</p>
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	<p>allowances.</p> <ul style="list-style-type: none"> ▪ The constitution should clearly address the issues of the disabled. 	
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	<ul style="list-style-type: none"> ▪ Their right to live independently should be ensured. ▪ They should be given special priority in all the offices. ▪ The state should give special attention to the education of the disabled/establish schools/provide good facilities to their teachers. ▪ The government buildings should disabled-friendly. ▪ There should be reliable arrangement for their citizenship. ▪ They should be provided self-employment education. ▪ There should be provision for free medical treatment. ▪ The state should take the responsibility of the children of the disabled, and make laws regarding their social security and social justice. ▪ The education should be free and there should be a provision for scholarships up to the higher level. ▪ The constitution should be made in a way that it is not only good but also gives the disabled a sense of belongingness by including their basic issues as their fundamental rights. 	
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	<ul style="list-style-type: none">▪ There should be a separate clause in the constitution under the fundamental rights, and a constitutional provision for the education, health, employment, food sovereignty, accessories, availability of assistants and easy access, as well as making culpable (punishable) all sorts of discrimination on grounds of disability.▪ The Preamble of the constitution should ensure the rights of the disabled citizens to obtaining education, health, employment and information.▪ The discrimination should be ended and the disabled should be allowed to enjoy their rights as per their types.▪ The state should guarantee for the disabled people's right to live at par with the able ones.▪ The fundamental rights should include those to education, health, employment and social security.▪ The fundamental rights should include matters related with disability.▪ The constitution should safeguard the fundamental rights of the disabled people.▪ The new constitution should guarantee for the facilities, services and opportunities to be given to the people with disabilities instead of providing them a quota of the same.	
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	<ul style="list-style-type: none"> ▪ All the state agencies should be disabled-friendly in terms of participation, unanimous constitution drafting and social concept on the basis equality among the disabled people. 	
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	<ul style="list-style-type: none"> ▪ The constitution should be rights-oriented and inclusive. All the disabled children should get free education, and an environment conducive to study should be created in schools and campuses (academic institutions). ▪ The fundamental rights should guarantee for education, health, employment, rehabilitation and access. ▪ The government should guarantee for livelihood as per the condition of the disabled people. ▪ The fundamental rights should be provided. ▪ The state should safeguard the self-respect of the people with disabilities and ensure the provisions for special rights (privileges). ▪ The new constitution should make such laws as to make the disabled have complete guarantee about education, health, employment. ▪ The constitution should clearly ensure the rights of the disabled people. ▪ The rights of all sorts of the people with disabilities should be mentioned under the fundamental rights and Preamble of the 	
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	constitution, and the same should be implemented.	
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	<ul style="list-style-type: none"> ▪ Laws should be made for the state to fully protect the disabled people. ▪ The constitution should essentially mention about the end of the discrimination and provision of equality. ▪ The new constitution should make the disabled feel that it belongs to them and it has successfully raised all of their issues (education, health, employment and social security). ▪ The officials of government and private sectors working for public concerns should be clear and ensured about the existing government policies and laws. The conscious groups of people should show concern towards the extremely disabled people. ▪ The fundamental rights should guarantee for a respectful life of the people with disabilities at par with other citizens till their death. ▪ There should be an end to discrimination. ▪ An environment free from all obstacles should be created for the people with disabilities and there should be a provision for their education, health, training and employment. ▪ The fundamental rights to education, health and employment by all types of the people with disabilities should ensured. 	
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	<ul style="list-style-type: none"> ▪ The Constituent Assembly should provide proportionate right to the disabled. 	
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	<ul style="list-style-type: none"> ▪ At the government level, all types of disabled should be included and their fundamental rights to education, health and so on should be ensured. ▪ There should be a guarantee for proportionate participation by the people with disabilities in all agencies and levels as well as a necessary provision for them to live in the community like the able ones. ▪ The provision for to education, health and employment as well as information should be established under fundamental rights, while a separate provision should be made for the sustenance of the severely disabled people. ▪ We need our fundamental rights. ▪ The constitution should mention about the proportionate participation of the disabled people. 	
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2. Committee for Safeguarding the Rights of Minorities and Marginalized Communities	<ul style="list-style-type: none"> ▪ The provision for relief to the disabled. ▪ There should be a provision of reservation for the disabled. ▪ There should be a mandatory situation to provide an access to the disabled in all the agencies of the state. ▪ There should be a provision for allowances. ▪ There should be 75% of concession 	<ul style="list-style-type: none"> ▪ The state shall adopt a policy of positive discrimination in order to guarantee for the jobs to the disabled. ▪ There state shall provide for livelihood allowance to all the disabled people who are unable to do any job or have no jobs. ▪ The disabled people should be classified as marginalized group.
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	<p>for commuters.</p> <ul style="list-style-type: none"> ▪ There should be seats for the disabled in job opportunities. ▪ There should be a mandatory situation at all levels of the society for the representation of the disabled. ▪ There should be a provision of allowances for all types of the disabled. ▪ It should be mentioned that anyone abusing the disabled shall be regarded as a social criminal. ▪ The constitution should ensure a quota for the disabled regarding political appointments. ▪ All the disabled people should get allowances. ▪ There should be provision for services and facilities for the disabled people. ▪ There should be a provision for skill-oriented training for the disabled. 	<ul style="list-style-type: none"> ▪ The data will be regularly collected and updated for the identification of the disabled people. ▪ The state shall adopt a policy of positive discrimination in order to safeguard the rights of the disabled.
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	<ul style="list-style-type: none"> ▪ There should be arrangement for their allowances. ▪ There should be the disabled people. ▪ There should be arrangement for their job reservation. ▪ The disabled people should be guaranteed about safe life from the government agencies. 	
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	<ul style="list-style-type: none"> ▪ There should be an arrangement for the ID (identification card) for the disabled people. ▪ There should be essential representation of the disabled people in all the places visited by people's representatives. ▪ The government should provide social security to the disabled people. ▪ There should be a mandatory situation for the responsible agency of the nation to think about disability. ▪ There should be an arrangement for allowances to all the disabled people. Laws should be made to provide for livelihood to extremely disabled people and allowances for their guardians. ▪ The state should take care of the children of the disabled people, and make laws for social security and social justice, make education free and provide stipends up to higher level. 	
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	<ul style="list-style-type: none"> ▪ The fundamental rights should include rights to education, health, employment and social security by the disabled. ▪ The new constitution should remove the quota system and, instead, provide full guarantee of the facilities, services and opportunities to be given to the disabled people. ▪ The disabled quota should be removed; rather all the disabled people should be provided 	
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	<p>allowances at par with single women, elder citizens and so on..</p> <ul style="list-style-type: none"> ▪ Allowances should not be provided as per quota. Instead, the state should sanction budget in accordance with the data of the disabled people and distribute it to them in a transparent manner for their livelihood. ▪ Positive discrimination should be taken as the privilege of the marginalized classes. ▪ The state should draft a foolproof constitution for the disabled people. ▪ There should be essential arrangement ensuring the proportionate participation of the disabled people in all the agencies and levels and their livelihood at par with the able ones. ▪ The rights to education, health, employment and information should be established under the fundamental rights and there should be a separate arrangement for the livelihood of the extremely disabled people. 	
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<p>3. Committee for State Restructuring and Distribution of State Power</p>	<ul style="list-style-type: none"> ▪ The political rights of the disabled people should be ensured. ▪ There should be a mandatory condition for the easy access of the disabled people in all the agencies of the state. ▪ There should be disabled-friendly environment for their equal participation in all the agencies, unanimous constitution building and social concept. 	<ul style="list-style-type: none"> ▪ The state structure shall be republic. ▪ The state structure shall be mixed. ▪ The regional structure of the state should be framed in accordance with geography and demography (population).
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	<ul style="list-style-type: none"> ▪ The constitution should be rights-oriented and inclusive. The disabled children should be provided free scholarship, an environment conducive to study should be created in schools and campuses (academic institutions). ▪ The state should draft a foolproof constitution for the disabled people. ▪ There should be essential arrangement ensuring the proportionate participation of the disabled people in all the agencies and levels and their livelihood at par with the able ones. 	<ul style="list-style-type: none"> ▪ The state shall adopt a policy of positive discrimination in all its structures for equal participation of the disabled people and enforce their compulsory participation. ▪ The state restructuring should be disabled-friendly.
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<p>4. Committee for Determining the Form of Legislative Organ</p>	<ul style="list-style-type: none"> ▪ There should be punitive arrangement for social discrimination against the disabled people. ▪ Anyone accused of abusing the disabled people should be regarded as a social culprit. ▪ The constitution should provide for punishment to anyone humiliating the disabled people. ▪ Practical laws should be framed. ▪ Anyone manhandling and abusing the disabled people should be subjected to severe punishment. ▪ The state should take care of the children of the disabled people, and make laws for social security and social justice, provide free education and stipends up to higher level. ▪ There should be disabled-friendly 	
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	<p>environment for their equal participation in all the agencies, unanimous constitution building and social concept.</p> <ul style="list-style-type: none"> ▪ The state should build a foolproof constitution for the disabled people. ▪ There should be a mandatory arrangement for executing the rights of the disabled people. 	
5. Committee for Determining the Administrative Form of the State	<ul style="list-style-type: none"> ▪ The political rights of the disabled people should be ensured. ▪ There should be an access of the disabled people at decisive levels. ▪ A ministry for the disabled people should be created. ▪ There should be essential representation of the disabled people in all the places visited by people's representatives. ▪ There should be disabled-friendly environment for their equal participation in all the agencies, unanimous constitution building and social concept. 	<ul style="list-style-type: none"> ▪ In every agency of the state, there should be a branch concerning the issues of the disabled people. ▪ There should be autonomous local bodies and there should be provision for compulsory participation therein by the disabled people.
6. Committee for Judiciary System	<ul style="list-style-type: none"> ▪ There should be essential representation of the disabled people in all the places visited by people's representatives. 	<ul style="list-style-type: none"> ▪ The government shall provide for legal treatment of the disabled people and be plaintiff in all cases against them.
7. Committee for Determining the Structure of Constitutional Bodies	<ul style="list-style-type: none"> ▪ The fundamental rights should clearly mention about the social equality of the disabled people. ▪ An autonomous Disabled Rights Commission should be formed. ▪ Arrangements should be made to 	<ul style="list-style-type: none"> ▪ The constitutional structure of Nepal should include districts, regions and centre. ▪ A constitutional commission should be formed for the citizens.

	<p>establish the Disabled Commission.</p>	<ul style="list-style-type: none"> ▪ An inclusive commission should be formed requiring representation of all the marginalized groups ▪ The participation of the disabled people should be made mandatory in all constitutional bodies.
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<p>8. Committee for Distributing Natural Resources, Economic Rights and Revenues</p>	<ul style="list-style-type: none"> ▪ The disabled people should be provided relief. ▪ They should have a right to earning livelihood and safeguarding their professions. ▪ The constitution should guarantee the disabled people for education, health and employment. ▪ There should be equal participation of the disabled people in state means and resources and the like and state decisions. 	<ul style="list-style-type: none"> ▪ The state shall safeguard the rights of the disabled to natural vegetation, water and land, and to equal right for their use. ▪ The state shall make a policy to safeguard the economic rights of the disabled people and develop their skill, and thereafter provide opportunities as per their qualification, ability and disability.
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	<ul style="list-style-type: none"> ▪ Arrangement should be made to provide skill-oriented training to the disabled people. ▪ The state should allocate separate budget for increasing the level of the disabled people. ▪ There should be arrangements for their allowance. ▪ There should be arrangements for their employment. ▪ They should be provided skill-oriented training. 	
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	<ul style="list-style-type: none"> ▪ There should be job reservation for the disabled people. ▪ The disabled quota should be removed and allowances should be provided to all the disabled people as per their disability and at par with widows, elderly people and so on. ▪ There should be no quota for allowances; rather the budget should be allocated as per the data regarding the disabled people and the same should be distributed according the models of livelihood and in a transparent manner.. ▪ There should be livelihood (sustenance) allowances for the fully disabled people. ▪ There should be created an obstacle-free environment for providing education, health, training and employment to the disabled people. ▪ The constitution now being built should provide employment to all the disable people. 	
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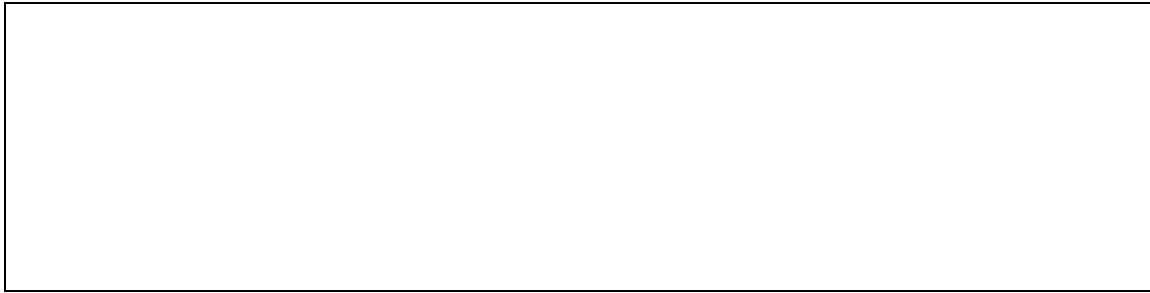
<p>9. Committee for Determining the Basis for Social Solidarity</p>	<ul style="list-style-type: none"> ▪ The constitution should clearly mention that the state shall make special arrangements for making easy access of the disabled people in sports and entertainment and for holding sports competitions and training activities.. ▪ Special programmes should be planned to increase the working skill of the artists. ▪ The present drama should be 	<ul style="list-style-type: none"> ▪ The Braille script, touch language, lip study and code language (gesture) as used by the disabled people should be regarded as a part and parcel of their life.
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	transmitted through different electronic media in order to further enhance such public awareness.	
10. Committee for Safeguarding National Interests		
11. Notice of Civic Relations Committee		

An Estimated Number of Audience in Different Districts

Date	Location	Audience Number	Female	Male	Disabled
Falgun-18	Tribhuvan S.S., Kohalpur, Banke	800	340	420	20
Falgun-20	Dadeldhura, Headquarters	300	60	210	30
Falgun-21	Dadeldhura, Jigbudha	400	250	120	30
Falgun-23	Chhinchu, Surkhet	700	305	350	45
Falgun-23	Birendranagar, Surkhet	775	325	400	50
Magh-24	Shadow (Proxy) Constituent Assembly	150	5	5	140

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The artists of Nepal Disabled Human Rights Centre staging the drama

Conclusion

The drama has provided equal opportunity to all the citizens, be they literate, illiterate, disabled and living in rural area, to give their suggestions to draft the new constitution. The organizer believes that the suggestions address all the issues of deprivation of the disabled people from time immemorial.

We have received ample suggestions and recommendations from women, men, rich, poor, able and disabled, all the people working in different fields of the society, regarding the issues that should be included in the constitution in order to end the discrimination meted out to the disabled people. We are sure that all the members of the Constitution Building (Drafting) Committee will ponder seriously over these issues and include them in the new constitution. The present suggestions will help in including the issues concerning the disabled people in the process of constitution drafting.