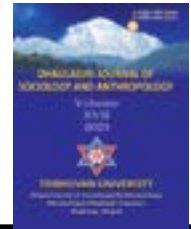


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Structural Barriers to Intergovernmental Relationships in Nepal

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Abstract

This paper examines the role of Intergovernmental Relations (IGR) in shaping interactions among Nepal's different levels of government. This article examines how IGR has evolved, its functionality, and its challenges, focusing on the structural and systemic barriers to its effectiveness. Using qualitative research, data was collected through interviews with 28 key informants, including members of the National Coordination Council, chief ministers, LG Associations, and federal ministries from April to October 2022. Findings show that, despite constitutional and legal mechanisms like the Constitutional Bench, Interprovincial Council, and National Coordination Council, IGR remains inefficient. Key barriers include a lack of willpower, self-interest, and a failure to innovate. These issues hinder the constitutional bench, with over 300 pending cases, and the IPC struggles due to the Prime Minister's reluctance to devolve power. The NCC faces internal political conflicts, and the Intergovernmental Fiscal Council deals with grant distribution, tax collection, and fiscal federalism challenges. Other challenges include weak participatory practices, complex procurement, and a rigid resource distribution system. As a result, the paper demonstrates that federalism implementation still faces significant challenges despite federal, provincial, and local cooperation. The issues include ambiguous jurisdictions, political disagreements, inefficient bureaucracies, and unclear fiscal mechanisms. It is essential for Nepal's federalism to be effectively implemented that there is strong political commitment, supportive institutions, and a culture of governance emphasizing policy coherence and public service delivery.

Keywords: intergovernmental relations (IGR), federalism, local government, constitution, Nepal

Introduction

The concept of intergovernmental relations (IGR) was coined to describe the relationships between various levels of government (between government officials and institutions) to meet common agendas (Aye, 1997; Wright, 1974). This concept reflects the general growth

of relationships among the national and sub-national governing entities and among the many officials who hold essential policy-making positions (Bolleyer, 2009). According to Anderson (1960), intergovernmental relations are distinctive, interdependent, and interrelated within government units. Currently, coordination, cooperation, and coexistence are considered prerequisite



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elements of IGR to conduct the state's power, resources, and functional activities autonomously by two or more tiers of government (Pandey, 2022). These elements encourage the state to decentralize authority from national to subnational governments by state laws and direct them to work together. Benton (2020) describes intergovernmental relationships as functional in several ways. These are (a) the interaction between various levels of government, (b) understanding the roles and responsibilities of each level of government, and (c) developing effective relationships to enhance their capacity to meet expectations. Thus, IGR is considered an esteemed instrument that equalizes the national and subnational governments' political systems and formal and informal structures (Acharya, 2021).

In the federal structure, IGR encompasses relationships between the center and the federated units and relationships among the federal units, characterized by co-decision, coordination, and consultation. In some cases, it has disputed relationships characterized by collusion, competition, control, and coercion (Acharya & Scott, 2022). Nevertheless, Zafarullah & Huque (2012) argue that IGR ameliorates the redistribution of resources towards sub-national units, strengthens decentralization for democratization, supports resolving the issues of subnational governance, and promotes economic growth and viability. Thus, the IGR has designated an important body of activities or interactions between governmental units within the federal system of all types and levels (Anderson, 1960).

In federal countries, the IGR facilitates the exchange of ideas, coordinating activities, and resolution of differences between governments (Header & David, 2015). Despite IGR's successes in governing structures, considerable fault lines exist in institutionalizing IGR due to both explicit and implicit constraints imposed by federal government to provincial and local governments and province-to-local governments. Due to this, the delivery of services, revenue administration, enactment of laws, sharing of power and functions, and functioning of legislative, executive, and judicial jurisdictions are in crisis (Acharya, 2021). The idea of intergovernmental relations has been developed in Nepal as part of the decentralization reform agenda, which is a part of federalism. According to Acharya (2021), the constitution permits the creation of various intergovernmental structures to reinforce the relationships between the federal, provincial, and local governments. Notables are the Constitutional Bench, the Interprovincial Council, the National Natural Resources and Fiscal Commission, the Intergovernmental Fiscal Council, the Provincial Coordination Council, the National Coordination Committee, and various sectoral committees (Subedi, 2021). While some of these institutions are explicitly mandated by the Constitution, others have been established through statutory provisions.

Following the 2017 elections, three tiers of government have been operating within distinct tiers. However,

significant ambiguities have arisen in delivering legal, administrative, political, and fiscal services. The challenges associated with these newly established federal structures are largely informed by the legacy of the previous unitary system (Acharya, 2018). This transition has adversely affected resource distribution, jurisdictional delineation, employee adjustment, and administrative management. Additionally, it has impeded the ability of subnational governments to carry out their political and administrative duties efficiently (Acharya, 2021). These issues have led to ineffective intergovernmental relations (IGR) frameworks, such as the Inter-Provincial Council, the National Coordination Council, inter-province trade systems, and the Provincial Coordination Council. Adhikari and Upadhyaya (2020) contend that the constitutional framework anticipates a practical and formal structure for managing intergovernmental relationships. Such a mechanism is intended to foster a conducive political environment, address fiscal imbalances, and reduce disparities in service delivery across subnational territories. Despite these constitutional aspirations, IGR in Nepal has been relegated to a lower priority due to the weak commitment of political leaders and administrative bureaucrats. This lack of commitment has not only weakened IGR but also fostered a dependency syndrome across all three tiers of government on high-level political leadership. In light of these perspectives, this paper examines the evolution, functionality, and challenges of IGR in Nepal, focusing on the structural and systemic barriers that impede its effectiveness as a constitutionally mandated system of power and governance.

Understanding, Discourses, and Structural Barriers of Intergovernmental Relations

The central-local relationship theory is considered a major conceptual framework of intergovernmental relationship-based research, which creates a space for people to raise their voices in their institutions (Wilson, 2003). The purpose of such theory is to establish the functional linkages between various tiers of the government in legislative, executive and judiciary functions along with decision-making, service delivery, and resource mobilization (Rhodes, 1997). He further explains that the central-local relationship is the process of institutional differentiation and pluralization. In this association, the new network of central-local relationships steers and holds them accountable. This section aims to discuss existing scholarship on intergovernmental relations and structural barriers, hoping to minimize the adverse relationships between tiers of the government. The purpose is twofold. First, exploring the normative understanding of intergovernmental relations and current discourse, this is practiced in how federal governments conceptualize and operationalize. The second purpose is to understand the structural barriers to effectively operationalizing intergovernmental relations.

The Normative Understanding of Intergovernmental Relations

The term and concept known as IGR was introduced into general political discourse by Clyde F. Snider in 1937, Snider published a research article entitled "County and township government in the United States." Since then, the term has been used by numerous scholars, policymakers, and institutions concerning governing structures (Wright, 1999). According to Wright (1992), IGR is a field of study in public administration that dates to the 1960s and encompasses a wide range of aspects, including the division of powers among tiers of the government. There are administrative and political ties between subnational government units and tiers and interstitial activities, relationships, and organizations. The study of these areas has covered various perspectives, from administrative to fiscal, legal to political and economic to sociological (Benton, 2020). In 1959, a United States Advisory Commission on Intergovernmental Relations was formed to maintain the relationships between horizontally and vertically leveled governments, later promoted by Canadian cooperative federalism in the 1960s. As a result, IGR is regarded as an interconnected network of federal, provincial, and local institutions that interact; the organization helps governments share ideas, coordinate their activities, and resolve differences by creating an environment where they can come closer through institutional arrangements (Cameron & Simeon, 2000). Lowatcharin, et.al (2019) explain that IGR is a critical issue in every political and administrative system, either federal or unitary. However, the concept IGR originated in the United States and has been highly popularized in federal systems contexts. Other terms connote similar meanings (Lowatcharin, Crumpton & Pacharoen, 2019; Lan, 2003; Peters, 2001). For instance, IGR is practiced in four ways. These are: a) under constitutional provisions, b) under executive orders c) under parliamentary Acts, and d) ad-hoc devices.

By the Constitution, it is a system of institutional cooperation, coordination, and coexistence aimed at addressing the relationship between equality and autonomy (Acharya, & Zafarullah, 2022). In Pandey (2022) view, IGRs are essential in virtually all political systems (both unitary and federal) with a multilevel system of government. Considering the necessity of government interaction to resolve constitutional overlaps, interdependencies, spill-over effects, and the need to tackle policy problems that go beyond competence boundaries, IGRs are essential (Bolleyer, 2009). Analysis of IGR points out that its formal structures and institutions facilitate the coordination of the work of all government spheres in providing services and arranging for financial arrangements to alleviate poverty and promote development. It also establishes a line of communication between LGs, provinces, and federal units (Acharya & Zafarullah, 2022). As a result of these efforts, IGR creates an enabling environment for the federal, province, and local governments for more inclusive

administrative, political, judicial, and legislative bodies; addresses common agendas in fair share benefits; and reinforces the multi-level governance and decentralization of the work responsibilities (Acharya, 2021). Thus, IGR acts as an instrument to advance cooperative federalism and integrated development by enacting policies and programs at all levels of government that encourage efficient service delivery to fulfill societal requirements in a long-term and sustainable manner (Acharya & Zafarullah, 2020; Adhikari & Upadhaya, 2020; Edwards, 2008). In addition, intergovernmental relations focus on the network of interactions between or among governments through formal and informal structures to achieve constitutional mandates. The constitutional mandate remains to formulate and enact sound public policies, consolidate the fragmented administrative system, and design the consciousness to spend the public resources for effective service delivery (Adhikari & Upadhyaya, 2020). Despite terminological differences and different definitions, Anderson (1960) distinguishes the IGR characteristics differently. First, it recognizes all levels and tiers of government, including federal agencies and local governments. Second, governmental organizations work independently and collaboratively based on their ability. Third, it is a result of both formal and informal interactions between public authorities. Fourth, relationships are based on consciousness rather than isolation. Finally, it emphasizes policy issues and the functions of all public administrators significantly (Phillimore, 2013).

However, IGR in current discourse involves extensive informal exchanges and interactions (Edwards, 2008). The upper level of government has created the informal nature of IGR by influencing the politics, power, functions, duties, resources, finances, policies, laws, institutions, and political processes of the lower levels of government.

IGR Practice in Different Federal Countries

Evidence (Kincaid & Cole, 2016; Rosenthal, 1980) indicates that the performance of IGR around the world has been mixed. In some countries, the IGR is engaged in a collaborative, well-coordinated, and inclusive approach in others, it is practiced in a competitive, hierarchical, and dependent manner. In the United States, intergovernmental relations exercise for evaluating the roles, responsibilities, interactions, attitudes, behaviors and influences of the federal, state, and local governments on each other (O'Toole, 1988). Within countries, the connections between these governmental tiers can be characterized as coercive, collusive, and competitive. State and local governments are significantly affected by the mandates, preemptions, conditions of assistance, and other regulations that Congress has progressively enacted over time.

Likewise, state governments have generally exercised more regulatory authority over their local governments than before (Kincaid & Cole, 2016). For example, the polarization of the state governments has rendered the

national government unwilling or unable to address a range of pressing issues, leaving states (and sometimes their local governments), and policy areas (e.g., immigration, sustainability, climate change, education, abortion, health care, Interstate sales taxation, etc.) (Rose & Bowling, 2015). This reason led the older Anglo federations of the USA, Canada, and Australia to not have significant provisions for IGR in their constitutions (Fenna, 2012). In South Africa, IGR has built mutual trust and institutional harmony to operate the government institutions at all tiers of the government. Where government institutions and organs of state have exercised statutory power or implemented a policy that requires the undertaking of joint work or implementing concurrent functions (Malan, 2012).

Over the past 17 years, most intergovernmental interactions in South Africa have moved to a statutory system with numerous forums and procedures for addressing concerns about policy coherence, integration, and alignment. However, various intergovernmental structures are dysfunctional due to the three spheres of government not pursuing their common objectives and programs as well as engaging in joint work (Malan, 2012). In Brazil, federalism after 1988 sought to gradually combine the introduction of decentralization with instruments and mechanisms of cooperation about public policies. Scholars (Jha, 2007; Wilson et al. 2003; Garcia-Guadilla, 2002) agree that this process was a direct result of economic reforms and democratic governance, which led to a decentralization of power, accountability, and resources as well as an increase in the effectiveness of local governments. However, Brazil is marked by a great disparity in land distribution and population distribution. The main problems Brazilian federalism faces are the enormous economic and fiscal disparity among the states and the unequal distribution of income among the inhabitants of the states (Jha, 2007). In the area of taxes and finances, there is a complete lack of intergovernmental coordination. One of the great problems of the Brazilian federal system is characterized by intense fiscal competition among most of the states to attract large-scale industrial (Afonso, Ferreira & Varsano, 2019). Over the course of the 20th century, Brazilian intergovernmental relations oscillated between authoritarian, centralizing regimes and liberal, decentralizing regimes.

To explain this swing, two concurrent processes must be considered. First, the federal government has a marked advantage over governments of more powerful states from a political and fiscal standpoint, even though they remain central players in national politics. Secondly, there was no increase in national political competition without an institutionalization of intergovernmental relations that would clearly define the rules of federal governance (Afonso, Ferreira & Varsano, 2019; Garcia-Guadilla, 2002). Thus, the political strength of each state has always depended on the ability of its political elites to form alliances with other state forces and national players in the federal sphere.

In Canada, the intergovernmental relationship has been reformed to allow LGs to play an important role in federal, provincial, and territorial policymaking, collaborate on shared priorities and formulate better urban, rural, and regional policies (Cameron & Simeon, 2002). However, intergovernmental relations have appeared ineffective as expected due to ignoring the participation of LGs, failure to eliminate the unfunded mandates by intergovernmental agreements between provinces and LGs, and devaluation of trilateral intergovernmental relations (Hachard, 2022). This resulted in weak LGs and a Senate dominated by the executive.

Another important point is that the country's central institutions have not adequately represented regional differences. In addition, the province's responsibilities extend to the health, welfare, and education sectors, thereby limiting LGs' responsibilities and creating bitter intergovernmental conflict (Cameron & Simeon, 2002). Following this, federalism in Mexico has not worked very well since the creation of the Federal Mexican States (Cantú & Desposato, 2012). For approximately 70 years, IGR was completely influenced by the dominant position of the Institutional Revolutionary Party. Although local governments play an important role in Mexican federalism, and there is a belief that the federation should be fostered by working at a local level, IGR in Mexico is influenced by the sectors.

The central government and the six original states enjoyed separate constitutions, and their governments continued after the federation of Australia. In this country, federalism has provided equal representation for each state, whereby intergovernmental relations are dominated by the executive arms of government (Fenna, 2012). In the past, there were no mandated institutions to develop or drive a long-term intergovernmental agenda on nation-building, and this leaves intergovernmental relations in Australia overly dependent on the 'soft' factors of actors and relationships to gain traction on a critical issue (Menzies, 2013). Formal meetings between First Ministers and Ministerial Councils are currently conducted to promote intergovernmental relations. This process supports negotiating an agreement for joint programs, financial arrangements, and other disputes (Painter, 2001). However, criticism encompasses the lack of collaboration with states and coercive practices, ad hoc practices, unsuitability for responding to the complexity of the global economy, lack of a strategic agenda, lack of respect for state and territory contribution, lack of transparency, the centralizing impact of decisions, closed and anti-democratic decision-making, and poor meeting procedures and practices (Menzies, 2013).

The intergovernmental system in Germany is characterized by a multiplicity of vertical and horizontal intergovernmental relations (Benz, 2009). These are the "Federal State" with the Bundesrat in its center based on the Constitution. The second pillar is known as the "Whole

State" (Länder) and it comprises numerous bodies that discuss political initiatives on equal footing with their counterparts in the Länder. The third pillar consists of institutions serving functions of horizontal coordination between the Länder (Leonardy, 1998). Since the 1970s, interlocking politics and executive federalism have been disputed in Germany. During the last two decades, critics have complained about inefficient and opaque policy-making due to entangled powers between levels of government. The poor intergovernmental relations have been blamed for economic stagnation, problems of the welfare state, lack of significant reforms and increasing disenchantment of citizens with governments (Benz, 2009).

Similarly, India has been practicing IGR in formal and informal modes. In formal mechanisms, the Inter-State Council and the National Development Council, whose membership sometimes overlaps (Hausing, 2023). Despite this, there are many informal mechanisms, such as ad hoc intergovernmental conferences like Chief Ministers'/ Ministers'/ Secretaries' conferences or Zonal Councils. These meetings serve as common ground in each zone to ensure inter-state problems are resolved, regional development is promoted, and union-state relations are built harmoniously. It concludes that IGR in India is more multilaterally provided than bilaterally, which generally tends to be vertically or hierarchically organized rather than horizontally conducted. Intergovernmental Relations in India is regulated through Centre-State Relations and Council-State Relations mechanisms, which enjoy functional independence and quasi-judicial status. "Centre-State Relations and Council-State Relations" is to develop policies and resolve conflicts among the states. The next mechanism is the "Inter-State Council", which is a permanent constitutional body created to coordinate inter-state relations. It is the constitutional body that deals with all federal disputes (inter-state and Union-state conflicts) comprehensively. Nevertheless, the Council can be constituted on a need-to-use basis as and when it is needed. The significance of the "Inter-State Council" as a platform for inter-governmental coordination and its potential for pro-activism in fostering collaborative federalism has increased in the context of the coalition era. The key function of the Council is to investigate and discuss subjects of common interest between the Union and State(s) or among the States (Hausing, 2023).

In Nepal, inter-governmental relationships aim to establish effective, transparent, accountable, and efficient cooperation, coordination, and coexistence between the federal, provincial, and local government levels. The Constitution of 2015, National Natural Resources and Fiscal Commission Act, 2017, Intergovernmental Fiscal Arrangement Act, 2017, Government of Nepal (Allocation of Business) Rules 2017, Local Government Operation Act of 2017, Employee Adjustment Act, 2018, and the 'Federal, Provincial and Local Level (Coordination and

Interrelationships) Act 2020' have established several institutional structures and allowed the formulation of legal procedures to facilitate cooperation between the federated units (Acharya, 2021; DRCN, 2020). Despite this, Nepal's intergovernmental relations are affected by various factors such as political stability/instability, distribution of work responsibilities and resources, political culture and leadership, administrative and technical capacity, institutional and technical capacity, and work environment (Subedi, 2021). However, there are no empirical research papers, studies, or documentation available on intergovernmental relations. Consequently, IGR operates according to government ad hoc decision-making. It is therefore the purpose of this paper to institutionalize federalism and good governance in Nepal through IGR.

The Structural Barriers to Operationalizing Intergovernmental Relations

Structural and System Barriers are obstacles that collectively affect a group disproportionately and perpetuate or maintain stark disparities in outcomes. These barriers often manifest as policies, practices, and norms that privilege advantaged groups while systematically disadvantaging marginalized ones. Historical facts highlight the structural barriers within intergovernmental relations (IGR) systems perpetuate broader inequities and disparities, hindering marginalized communities from accessing high-quality services and achieving overall well-being. Acharya (2022) argues that the structure of jurisdictions, authority, and the division of power and functions across different tiers of government contribute significantly to these barriers within the IGR system. Key issues include the overwhelming dominance of central authorities over other units, divergent interests and priorities among units, constitutional loopholes, fragmented responsibilities, structural flaws, interaction patterns, resource scarcity, political differences, conflicts between executive and legislative branches, disagreements over policies and administrative actions, the establishment of parallel organizations and agencies, and legal disputes (Subedi, 2021; Phillimore, 2013).

Many scholars (Acharya & Scott, 2022; Menzies, 2013; Phillimore, 2013) contend that while cooperative federalism is a significant element, intergovernmental relations (IGR) are often ineffective in developing societies. This ineffectiveness stems from unclear authority, overlapping jurisdictions, resource dependency, and the centralized control of administrative functions at sub-national levels. These issues have led to structural barriers in several ways. Firstly, they hinder the establishment of robust inclusion and power-sharing mechanisms, centralizing decision-making processes and resource distribution systems. Second, power sharing between government tiers seems more captured, which limits collaboration and competition in political choices (Afesha, 2015; Cameron & Simeon, 2000). Thirdly, the different tiers of government are

working in an old fashion which leads them to fail to exchange ideas for policy coherence. Fourth, agreement on policy issues is pending when implementing decisions. Finally, there is a huge absence in the foundation for the federal ideology of "unity in diversity" (Afesha, 2015). These highlight how IGR is suffering to enhance and enable collective decisions, ensuring that policies and programs across all levels of government promote service delivery to meet the expectations and obligations of the citizens successfully.

In Nepal, political commitment often plays a dominant role in shaping functional intergovernmental relationships. However, there is a pervasive reluctance to address the political and legal complexities surrounding implementing constitutional rights. This reluctance has led to significant challenges, including difficulties in coordinating plan formulation and implementation, allocating budgets for prioritized programs, formulating policies and legal frameworks, and mobilizing resources vertically and horizontally. Such a mindset persists across all tiers of government and among the political leadership within both the government and political parties. This not only obstructs the realization of constitutionally mandated powers and functions but also undermines the cooperation, coordination, and coexistence necessary at the three levels of government. To address these challenges, Subedi (2023) proposes clarifying the shared functions of all three tiers of government, establishing a clear legal framework for their exclusive functions, and formulating laws to exercise the powers allocated to each level of government effectively.

Methodology

Both primary and secondary sources of information were employed while collecting data. Similarly, primary data were collected purposefully from April to October 2022. The information was collected through in-depth interviews with 28 key informants, including seven members of the National Coordination Council who represented local governments, three chief ministers from Lumbini, Karnali, and Sudur Paschim, three former chief ministers from Bagmati, Madhesh, and Sudur Paschim, three members of the Municipal Association of Nepal, three members of the National Association of Rural Municipalities in Nepal, seven officials from the Provincial Ministry of Internal Affairs, one from the Ministry of Federal Affairs and General Administration, and one from the National Natural Resources and Fiscal Commission. The interviews aimed to collect participants' opinions regarding Nepal's effectiveness, accountability, and current practices of intergovernmental relationships. They were also questioned about how the three tiers of government were establishing coordination and cooperation and removing barriers to the implementation of exclusive and concurrent functions. Also, questions were asked about the effectiveness of service delivery mechanisms at the three

tiers of government. For the interviews, open-ended and open-structured questionnaires were used. The qualitative data were transcribed and classified using four themes, as detailed below.

Findings

Constitutional Bench

In accordance with Article 137 of the Constitution, the Supreme Court has provision to establish a Constitutional Bench to address conflicts between the federal government and the provinces, among provinces, between provincial and local governments, and among local governments, alongside disagreements concerning the election of Federal Parliament or Provincial Assembly members and the disqualification of those members. The bench comprises the Chief Justice of the Supreme Court and four additional judges selected by the Chief Justice based on the recommendations of the Judicial Council. The Bench has the sole authority to define how the functions of different tiers of government are delineated in the Constitution. As part of its duties, the Constitutional Bench is responsible for testing legislation enacted locally, provincially, and federally. Furthermore, it is the Constitutional Bench's responsibility to rule on significant constitutional interpretation disputes. As a result of the Constitutional Bench's functioning and decisions, federalism will be practiced directly in Nepal. Despite this, no verdict has been delivered on such conflicts. In this respect, how it will influence the relationship among the federal, province, and local governments remains to be determined.

After the country became a federal system, a constitutional bench was formed to resolve disputes between federal units related to natural resources, taxes, trade, the rights of federal units, and common rights (Chandrika & Acharya, 2020). To resolve disputes, the constitutional bench is held once a week, every Wednesday and Friday, and conflicts between federal units, laws, and constitutional conflicts are heard. As of now, the constitutional bench has settled more than 300 cases, and dozens of preliminary hearings are pending (Ghimire, 2023). In August 2019, the Ministry of Industry, Tourism, Forests, and Environment of Madhesh Province filed a case at the Supreme Court against the federal government's decision to bring the Sagarnath Forestry Development Project of Madhesh Province under its federal government jurisdiction. Similarly, another case was filed against the federal government, claiming that the Forest Act of 2019 infringed upon the forest-related rights that are constitutionally guaranteed to provinces (Ghimire, 2022). Furthermore, a case was brought in 2018 to the Supreme Court asserting that the federal government enacted unilateral laws, directives, and circulars to local governments in violation of Article 232 of the Constitution, which calls for cooperation, coexistence, and coordination between the federal government and local governments. However, the constitutional bench could not render a

decision regarding a case filed. One example related to the basic and secondary education rights, which were given to local governments as an exclusive function. Based on this, local governments developed their own education by-laws, schools merged, appointed teachers, including headmasters, developed the capacity of teachers, and built educational infrastructure. But, the Supreme Court ordered that the appointment of principals in schools cannot be done by local governments. While hearing the case, the Supreme Court ordered that the regulations made by the local governments are not valid as there is a provision that only the Government of Nepal can make laws (Ghimire, 2024). In this decision, it was found that the mechanisms of the federal government have been raised to control the rights granted by the Constitution rather than the deposit of power in the lower bodies.

Similarly, the constitutional bench also faced the question of fairness, impartiality, and neutrality due to political interference. For example, the unholy engagement and vested interests of the prime minister, minister of law and justice, Chief Justice, judicial council members, and political parties in the constitutional appointment process and the judiciary settlement process created distortions and anomalies within the Constitutional Bench. This shows that the actions of the constitutional bench were found not to be effective, and its dominance over other benches has led to conflict between them. The upheaval made it harder to settle intergovernmental jurisdiction disputes and reinforced the federal government's centralized mindset and affirmed provincial and local governments' powerlessness.

Inter Provincial Council (IPC)

This structure is constituted under the constitution (Article 234), which aims to settle political disputes between the federation and a province and between provinces. A ten-member committee, including the finance minister, the home minister, and seven provincial chief ministers, has been constituted under the prime minister's chair. Despite that, the structure has not played an active role for various reasons. The first is the prime minister's reluctance to deviate power and functions to the sub-national level. Second, provincial chief ministers were engaged in colluding culture and unnecessary nexus against the federal government to create pressure for power devolution. Third, Nepal has been moving through coalition governments at the federal and provincial level, whereby political parties have different interests, ideologies, and priorities. Finally, the federal bureau pathology of Nepal has enjoyed hierarchy, centralization, and a personality-based nature, which has created democratic centralism and power concentration at the federal level. As for the functions of the IPC, there were four council meetings held from 2017 to 2023. In these meetings, around 84 tasks within 29 thematic areas were discussed and approved as part of the Federalism Implementation Action Plan. In all,

40 tasks remain to be completed, most of which are related to the drafting of laws. There have not been any meetings of the Inter-Provincial Council since its third meeting in April 2019. According to empirical tradition, the IPC deals with political disputes between federations and provinces, but local governments are not represented.

Additionally, the federal government was unable to enact the Civil Service Act, which adversely affected the implementation of infrastructure development, service delivery, and other policy issues. Currently, efforts are being made at the provincial level to prepare the Civil Service Act. Despite that, provincial governments are hesitant to make such a decision because of issues related to staff management, such as career development, pensions, personnel records, etc. Similarly, when the provinces started implementing common agendas such as security and police administration, the prime minister warned them not to attempt to 'overtake' the federal government; otherwise, there would be chances of an accident. Additionally, the federal government has not been able to give its mandate on which projects will be handled by which authority; for example, major projects will be handled by the federation, medium-sized projects by the provinces, and small projects by local governments. This means the IPC does not have jurisdiction over political issues that involve local governments as one of the parties to the dispute. The constitution seems silent on the probable political disputes between the local government(s) and the federal government.

National Coordination Council (NCC)

This committee is chaired by the Prime Minister, which is mandated by the 'Federation, Province, and Local Level (Coordination and Inter-relationship) Act, 2020'. The Act lists the council's responsibilities as coordination between the Federation, Provinces, and Local Levels on matters of concurrent powers, national interests, and concerns to be implemented at the Province and Local Levels, resolving the complexities relating to the implementation of the national plan, policies, and laws at the provincial and local levels, and implementing large projects. The key mandate of the NCC is to coordinate among all spheres of government in formulating laws and policies on matters of concurrent power. It also coordinates matters concerning national interest, complexities regarding the delivery of services, the implementation of national plans and policies, and large projects operating at the PLG level. The Prime Minister chairs the National Coordinating Council, which plays a crucial role in intergovernmental relations between the three tiers of government.

Despite the committee's provision in the IGR Act 2020, it could not be a priority area due to the internal conflicts of the government-led political parties, political differences between the federal, provincial, and local levels, and bureaucratic reservations. Although a committee has been formed and a meeting was held for the first time on July

1st, 2023, between the local level, provincial level, and federation, given the patronage culture that exists in the Nepali political system, the PM nominated three members as per the interests of the coalition government. This raises concern not only about the true representation of the LGs in the NCC in furthering their collective interests but also risks the chances of ensuring a comfortable majority in favor of the Chair (or federal government). The consequences may also affect the provinces represented by the 7 CMs by putting them in the minority in issues where provincial interests clash with the interests of the federal and local governments. As a result, laws related to concurrent rights were intricately prepared at the provincial and local levels. For example, the province had difficulties implementing the Police Act Civil Service Act, and formulating and operating the Public Service Commission effectively. This suggests that provincial actors were more inclined to support the IPC than the NCC. It was also essential to have representation in both the IPC and the NCC. For example, three members participated in FG, whereas seven participated in the provincial governments in IPC. From the point of view of representation, ample space was created in IPC. In contrast, most members participated from federal and local governments in NCC (the participation numbers are 6 from FG, 7 from PGs, and 7 from local governments). This created fear in the PGs about the minority position due to the collusion of federal and local governments.

Intergovernmental Fiscal Council

In 2017, the Intergovernmental Fiscal Arrangement Act, 2017 was enacted, aimed at establishing a framework to address revenue and expenditure issues at all levels of government. The Act envisaged the Intergovernmental Fiscal Council to settle issues related to fiscal matters at all tiers of the government as well as formulate strategies for fiscal federalism. The council is chaired by the federal finance minister, and its members consist of provincial finance ministers, representatives of local governments, as well as three experts nominated by the federal government. This Council acts as a common platform for deliberating fiscal matters among the federal, provincial, and local authorities. It is comparatively more active than other IGR structures because the prevailing legal arrangement provides that the council meets annually in March. By implementing these arrangements, Nepal is promoting fiscal federalism and ensuring the smooth operation of intergovernmental fiscal transfers, thereby improving its effectiveness. By providing fiscal resources, the cooperation and coordination among the different tiers of government appeared fascinating. These transfers contribute to the overall development and equitable distribution of resources.

Despite this, the problem of grant distribution among different levels of government has not been resolved. Thus, the Inter-Governmental Fiscal Council enables all three tiers of government not to duplicate activities by categorizing

projects based on the hierarchy of governments. It is most important for the federal government to carry out the major projects of national importance, followed by the provinces. Then, the local government should carry out the small projects. Also, this council makes necessary decisions regarding the preparation of laws required to implement fiscal federalism, allocating resources, recommending transferring funds, projecting and mobilizing revenues, allocating grant authority, analyzing accounting management and reporting methods, and enforcing taxation. Currently, the Inter-Governmental Fiscal Council closely regulates financial functions like debt management, consolidated fund expenditures, estimating income and expenditure, preparation of appropriation acts, borrowing expenses, contingency funds, and financial procedures.

However, when looking at the implementation level, opposite results are seen. Examples indicate that duplicity in the tax collection system, weak participatory practices in planning and budgeting, the inability to apply standard procedures, complexities in procuring goods and services, and an orthodox distribution system of resources and functions created upheavals in fiscal federalism. A large volume of revenue rights (70%/15%/15%) were kept in the federal government. Similarly, the indicators of inter-governmental fiscal transfers were conventional and designed by the blanket approach. The distribution of royalties for natural resources was not based on logical criteria, which were 50 percent at the federal level, 25 percent for the provinces, and 25 percent at the local level. Other problems include delays in preparing necessary laws, greed for appropriating fiscal transfers from the government, and a lack of understanding between the tiers of government regarding revenue generation and expenditure assignments. This shows that the Fiscal Council was not able to affirm justifiable resource distribution based on contributions and consumption.

Provincial Coordination Council

The structure is described in Section 105 of the Local Government Operations Act, 2017. Each province shall establish this council under the coordination of the Chief Minister. The committee is composed of the provincial minister, the principal secretary, the secretary, the chair of the district coordinating committee, the vice chair, the mayor, and the deputy mayor/vice-mayor. In addition to policy coordination in local and provincial governance, this council also assists provinces and local governments with strategic partnerships and policies about program management, exercising shared and competing responsibilities, sharing natural resources, and planning and budgeting. By law, every province has a council of this kind that meets at least once a year.

The results show that only three provinces—Mahesh, Bagmati, and Sudur-Pashchim—organized meetings in the last seven years. Similarly, the next three provinces, such as Koshi, Gandaki, and Lumbini Provinces, convened

only four meetings, while five meetings were convened in Karnali province. In the council meeting, various decisions were made, such as regularly sharing plans and programs on budgets, fiscal management, allocation, and implementation of conditional grants by the provincial governments. Among other agendas are determining rates and types of taxes, avoiding parallel taxes, and sharing revenue that has not yet been mutually shared. Likewise, discussion was made on concurrent jurisdiction, which was not enacted at the province and local levels due to the reluctance of the federal government to pass the necessary laws. The next item on the agenda was to approve the Civil Service Bill, the effective operation of provincial civil service commissions, and the Police Act.

About the effectiveness of the PCC, the locally elected official expressed his view that the Provincial Coordination Council meeting looked more crowded, and only some local elected officials could express their concerns. The provincial government often dominated meetings, and decisions made by the council were seldom implemented. Despite that, the Province Coordination Council meetings provide a platform for local units to share views, grievances, and policy issues. Nonetheless, Provincial Coordinating Councils could not make decisions due to political differences and different interests between provincial and local governments.

National Natural Resources and Fiscal Commission

Articles 250 and 251 of the Constitution envision the National Natural Resources and Fiscal Commission (NNRFC) provision. The main responsibility of the Commission is to deliver tasks related to the fiscal transfer system and suggest to the government in cases of disputes between different tiers of government over the use of natural resources. The NNRFC also has the constitutional authority to distribute inter-governmental fiscal grants from the Federal Reserve Fund to the provinces and local governments. Apart from this, the constitution has entrusted the Commission with the right to determine the basis and structure for distributing the provincial reserve fund to provincial and local governments. However, this pattern of revenue distribution adopted by the Commission seems to be very centralized. No province or local level can run autonomously with this revenue distribution. In addition, the Commission has only limited powers, including equalization and conditional grants at the province and local levels, revenue sharing, and allocation of resources based on the ceiling of royalties for natural resources. However, out of the transfers to state and local governments, special and supplementary grants have been handed over to the National Planning Commission. This has ignored the role of the commission envisioned in the Constitution. It seems that they are trying to keep the NNRFC under the control of the Ministry of Finance rather than scumbag it. The Inter-Governmental Financial Arrangements Act, 2074, has also narrowed down the scope of the NNRFC and the

provision of resources provided by the Constitution.

Sectoral Committee

The main purpose of this committee is to work jointly and coordinate the different thematic areas to support the three tiers of government. It is also called a ministerial-level council. These committees are working jointly on different thematic areas like education, health, roads, and agriculture between the three tiers of government. These committees are chaired by federal ministers. According to the Prime Minister's Office, about a dozen ministries have created such structures, but they are inactive.

At the federal level, the House of Representatives has ten thematic committees. These are the finance committee; international relations and tourism committee; industry and commerce and labor and consumer welfare committee; law, justice, and human rights committee; agriculture, cooperatives, and natural resources committee; women and social affairs committee; state order and governance committee; infrastructure development committee; education, health, and information technology committee; and public accounting committee. Similarly, there are two more committees, the Parliamentary Hearing Committee and the Directive Principles of State, Policy, and Liability Implementation Monitoring and Evaluation Committees, under the joint committee of the House of Representatives and National Council. In addition to that, there is the Sustainable Development and Governance Committee, the Legislative Committee, the Delegated Management and Government Assurance Committee, and the National Concerns and Coordination Committee.

In Parliament, committees are important in monitoring and evaluating the government's activities and providing further directions for correction. They assist in making the government responsible and accountable. As per the laws, the committee has the authority to give instructions to the government regarding the law-making process and its issues. In addition, committees have a significant role in acting as a bridge between the government and the legislature. These committees can investigate and suggest ministries, departments, or agencies for resource generation, revenue, and expenditure mobilization, provide alternative policies and programs, collect information on the status of progress of the ministries, study and monitor embezzlement of public property by government agencies, and implement investigation or inquiry commission reports. The committees also evaluate many other activities, including hearing complaints from citizens.

Despite this, the bills were stuck in parliamentary committees due to unnatural political alliances. As parliamentary committees worked in the shadow of the executive, they were virtually not considered. Several factors contributed to the decreased effectiveness of parliamentary committees, such as institutional, procedural, psychological, and competency issues. Another reason for the failure to form parliamentary committees, first based

on non-expertise and interests, was the approach of the political parties. Second, the committee's chairperson was appointed by the political parties based on their share of votes. Third, there was no action plan or agenda for the meetings of the parliamentary committees. There were also examples of meetings being held based on political interests. Fourth, there was a lack of tendency to take the opinions of subject experts and understand the viewpoints of stakeholders in committee meetings, which led members to lack knowledge and the ability to ask questions to stakeholders about related issues. Fifth, the whip of the political party was also a critical factor in the functioning of the committee. It was also seen that the committee's scope of work is duplicated, one interferes with the other's work area, and government and non-government agencies do not follow the instructions of the parliamentary committee, which harms the activity of the committee. Finally, the internal and external environment influences the performance of parliamentary committees. External elements include citizen demands, interest groups, international commitments, and funding agencies. Internal factors include institutional capacity, professionalism, and the possession of legislators.

Discussions: Do Cooperation, Coexistence, and Coordination Constitute Rational Choices?

The term "intergovernmental relations" denotes the interactions occurring between national and subnational government entities aimed at achieving shared objectives through collaborative efforts (Aye, 1997). In this context, both national and subnational governments may gain from a diverse range of opportunities. First, IGR creates robust inclusion and power-sharing mechanisms at all tiers of the government that democratize the decision-making process and resource distribution mechanisms (Hashi & Barasa, 2023). Second, power sharing between government tiers allows collaboration and competition in political choices (Afonso, Ferreira, & Varsano, 2019). Third, it ensures a continuous exchange of ideas between the different tiers of government to ensure policy coherence (Hashi & Barasa, 2023). In the federal system, at least two levels of constitutional governments are framed as national and subnational, functioning on the basic principles of self-rule and shared rule (Acharya, 2021). The state constitution specifies the absolute and concurrent jurisdiction of all levels of government. Thus, intergovernmental relationships are more common in the federal system. In line with this, Nepal's constitution has devolved state power and jurisdiction to the federation, provinces, and local governments based on the principles of cooperation, co-existence, and coordination (Bhusal & Acharya, 2024). Article 50 of the Constitution arranges the relationships of federal units based on cooperation. In contrast, Article 232 illustrates the relationships between the federation, province, and local levels based on the principles of

cooperation, coexistence, and coordination (DRCN, 2020). Thus, the constitution anticipates the overall development of the country by conducting cooperative relations between the federal units, governing based on local autonomy and decentralization, sharing responsibilities, resources, and administration between the federal units, and developing and expanding harmonious and cooperative relations.

Despite its newly established federalism, it faces challenges due to the absence of cooperation, coexistence, and coordination between the tiers of government (Fleischer, 2023). As a result, the federal units have created unnecessary competition, conflict, and tension regarding funds, functions, and personnel (Afonso, Ferreira, & Varsano, 2019). Unless the state administration has clear rights, resources, and responsibilities, it cannot settle disputes, develop economically, and deliver services effectively. Well-functioning institutional mechanisms and political, legislative, financial, judicial, and administrative systems have crucial roles in maintaining cooperation, coexistence, and coordination between tiers of government (Behnke & Kropp, 2021). To institutionalize intergovernmental relations, the constitution has provisioned numerous institutional structures, including the Interprovincial Council, the Intergovernmental Fiscal Council, the Provincial Coordination Council, and the Sectoral Committee, among others (DRCN, 2020). Through these structures, relations can be established between governments in both formal and informal ways. Nevertheless, many federal countries like the United States, Canada, Germany, Australia, Switzerland, and Brazil do not have formal inter-governmental coordination entities (Hachard, 2022; Bulmer, 2017; O'Toole, 2007). Instead, they rely on informal discussions and collaboration to strengthen relations between the different levels of government (Behnke & Kropp, 2021).

As demonstrated by these countries, having fewer organizations, holding fewer meetings, and focusing on collaborative efforts can be more beneficial (Bulmer, 2017). In Nepal, the constitutional provisions highlight that they create more space for the national government and less for the subnational governments (Bhusal & Acharya, 2024). This means the focus of intergovernmental relations on sharing state power—notwithstanding their articulation in the constitution—can only be exercised based on federal laws. The Constitution and prevailing laws define and direct formal relations, while meetings, assemblies, and other forms of contact result in informal relations (Subedi, 2021). However, these structures need to function better due to various factors. Among such main elements are the political economy of the country, the distribution of work responsibilities and resources, the culture and behavior of the leadership, administrative and technical capacity, the electoral system, functional democracy, and good governance (Fleischer, 2023; Krane & Wright, 2000.)

In addition, the federal, provincial, and local levels should not interfere with each other while making laws

within their respective limits; they should be adapted to the spirit of coordination and facilitation. Similarly, when making national and regional policies and standards, it would be appropriate to be oriented towards cooperation, coordination, and coexistence rather than controlling each level.

To facilitate collaboration among the three tiers of government, the Nepali government promulgated the Federal, Provincial, and Local (Coordination and Interrelationships) Act 2020. A primary objective of this Act is to coordinate federal, provincial, and local governments to exercise concurrent powers and to resolve disputes between the three tiers of government for policy coordination, strategic partnership in planning and management, and sharing benefits (Subedi, 2021). Likewise, the Act focuses on managing national vision and interest, national pride and unity, guiding principles and objectives, fundamental rights, and a socialist-oriented economy while respecting each level's autonomy (Adhikari & Upadhyaya, 2020). It has also expressed the importance of conserving natural resources and managing them sustainably, equitably distributing benefits, preventing corruption, promoting good governance, inclusive, participatory governance, and coordinating the expansion of trade. Citizens expect government agencies to resolve problems seen in inter-governmental relations (Pandey, 2022). Although all government agencies have different responsibilities and interests, there is no unity among them. They blame each other despite so many references in the Constitution. The implementation of federalism at all three levels requires a great deal of commitment and honesty, such as when setting policies and programs and implementing them, when addressing issues of the public sector for local, provincial, and federal governments, in delivering and expanding services, in the distribution of natural resources, in judicial and administrative matters, and in preparing and implementing laws, guidelines, and rules.

Conclusions

The constitution of Nepal establishes the concept of inter-governmental relations (IGR) to unify all levels of government, supported by several structures formed since the country's federalization. First, a constitutional bench has been provisioned that addresses disputes among federal units regarding political, administrative, jurisdictional, and fiscal authorities. Second, the Inter-Provincial Council (IPC) has been envisaged to resolve political conflicts between the federation and provinces or among provinces. Third, the National Coordination Council (NCC), the most influential IGR body, facilitates collaboration between the federation, provinces, and local levels, focusing on concurrent powers national interests, and implementing national plans, policies, and laws. Fourth, the Intergovernmental Fiscal Council acts as a platform

for addressing financial matters among various levels of government. Fifth, the Provincial Coordination Council, headed by the Chief Minister, promotes collaboration at the provincial level. Sixth, the National Natural Resources and Fiscal Commission, a federal constitutional body, oversees fiscal transfers, encompassing equalization and conditional grants to provincial and local governments. Lastly, sectoral committees improve synergy across thematic sectors among the three levels of government.

Despite the constitutional vision, Nepal's inter-governmental structures appear largely dysfunctional for various reasons. The constitutional bench has received limited recognition due to the centralized mindset of the federal government, the Chief Justice's interests, and the executive's influence over constitutional appointments. Similarly, the Inter-Provincial Council (IPC) has been inactive due to the Prime Minister's reluctance to devolve power, the collusive behavior of provincial chief ministers to pressure the federal government for more authority, and weak coalition governments marked by conflicting interests and priorities. The National Coordination Council (NCC) has failed to become a priority, hindered by internal conflicts within government-led political parties, political differences across federal, provincial, and local levels, and bureaucratic resistance. Fiscal federalism faces significant challenges, as the Intergovernmental Fiscal Council has been unable to resolve grant distribution issues, plagued by a duplicative tax system, weak participatory planning and budgeting, outdated resource distribution methods, and procurement complexities. The Provincial Coordination Council (PCC) is overcrowded, limiting the ability of local representatives to voice concerns, with provincial governments often dominating meetings and decisions rarely implemented. The National Natural Resources and Fiscal Commission (NNRFC), heavily influenced by the Ministry of Finance, remains constrained to tasks like financial equalization and revenue sharing, lacking broader authority. Lastly, sectoral committees operate under the shadow of the executive and are largely ineffective, with their contributions overlooked.

The persistent barriers in the operational sector continue to hinder the effectiveness of inter-governmental relations, preventing the desired outcomes of federalism from reaching the citizens. Achieving effective inter-governmental relations requires the honesty and commitment of all three levels of government to address these challenges and ensure the benefits of federalism are delivered to the citizen level.

Declarations

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I/We confirm that this paper's content was entirely human generated.

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