

Federal System in Nepal: Principles and Constitutional Arrangements

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Abstract

Nepal has been practicing federal system under the new constitution proclaimed through the Constituent Assembly (CA). Theoretically, federal system is a form of government in which the state powers are not only separated horizontally (legislative, executive, and judiciary), but also distributed vertically among the levels of government (centre and political constituents). As a system of government, federalism is guided by certain principles under which legal authorities are distributed, competent institutions are designed, the capacity of the institutions is enhanced, and prompt services are delivered. The basic objective of the federal system in Nepal is to end exploitation, discrimination, and alienation based on class, ethnicity, caste, and region. Scrutinizing legal texts and related literatures, this article discusses the principle of federalism, constitutional and legal arrangements, and their operation to make the federal system in a real sense. This article also identifies provisional gaps (both constitutional and legal) to make the system more effective and meaningful. It highlights key issues to be addressed for maintaining some degree of autonomy, competencies, and genuine results to make the federal system more successful, also at the operational level.

Keywords: federal system, power division, constitution of Nepal, federal governance

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Introduction

Federalism is a normative term that refers to the advocacy of multi-tier government combining elements of shared rule and regional self-rule (Elazar, 1991, p. 5; Watts, 2008, p. 8). Defining federalism is one of the difficult tasks in social science studies due to its fundamental functioning characteristics. Watts (2008) identifies a common characteristics of a federation as at least two level of government, a formal constitutional distribution of legislative and executive power with allocation of revenue resources between orders of governments, representation of constituent units in second chamber of federal legislature, a supreme written constitution which not to be amended unilaterally, independent judiciary and inter-governmental collaboration for shared powers allocated for two or more level of government.

Federalism is not a system that is refined only through constitutional arrangements, but also matures through practice, if this is supported by both theory and practice. When discussing federalism, there is often a debate about whether it is a political or constitutional issue. Although federalism is constitutionally defined as the establishment of government, the distribution of powers, and their exercise, it is often interpreted in political terms. Some prominent scholars (Watts, 2008; Livingston, 1956) state that just study of constitutions from a legal perspective does not adequately explain political patterns within federal systems in which societies themselves play a significant role in materializing their values within the society.

Federalism is a balanced system of political structure and constitutional order where the wishes and needs of the people are met through the constitution. The main issues of federal debate in whether a balance was struck between the political agendas and the constitutional arrangements when designing Nepal's federal structure. Because it determines whether the federal system in Nepal will succeed or fail. Even the 2015's constitution of Nepal transformed the country from unitary to federal, as a roadmap set forth in 2007's Interim Constitution (IC), it is necessary to study whether political agendas and constitutional provisions have been transformed in practice or not. The IC committed for restructuring the state in a progressive way to solve the existing class, ethnic, regional and gender problems in the country, and also directed the forthcoming article to adopt this spirit of the constitution (Article 138).

Article 56 of the present Constitution made a provision on the structure of the State as the main and special structures. The main structures consist of three tiers of government – federation, province, and local level, who exercise the political powers, special structures consisting of special, protected, and autonomous regions are granted for just socio-cultural protection and economic development in accordance to federal law. As mentioned, it is

necessary to evaluate whether the political objectives have been achieved in determining the federal structure and distributing powers. Besides, the federal system not only divides the executive, legislative, and judicial powers in the constitution, but it also requires effective implementation of these provisions into practice to achieve both political and constitutional goals. In order to respond to these key issues, the author offers some key analysis in this scholarly paper.

Research Questions, Objectives and Method

The federal system is a new experience for Nepal. Even after practicing this system for a decade, many reforms both in the legal frame and practices have to be made. In this reality, this paper basically focuses on two-fold questions: firstly, what are the theoretical foundations of federalism? And second, how are the state powers distributed and exercised in Nepal's federal system? Based on these two questions, this paper has analyzed and discussed about theoretical aspects of the federal system and its application in the Nepali political system. To answer these questions through scholarly research, this study reviewed and analyzed legal texts and literature. This paper is based on secondary information. The author specially used the primary authorities (constitutions and legal texts) and secondary resources (books, chapters, reports etc.) to make this paper more authentic and fruitful. The resources were collected from both physical libraries and archives. The author paid much attention to concentrate on research questions while data/information were collected and analyzed.

Review of Selective Literature

The literature review part of this paper basically discusses two-fold issues: the principle of federalism and federalism in the Nepali context.

Theoretical Perspectives

From a normative point of view, federalism is understood as a system of Government in which certain powers are exercised by levels of government below the national, and those powers are constitutionally guaranteed and do not depend on the national government (UNDP, 2007, p. 24). To make a clear view on federalism, Filippov *et.al.* quoted Riker's view, which states federalism as a state in which "(1) two level of government rule the same land and people, (2) each level has at least one area of action in which it is autonomous, and (3) there is some (constitutional) guarantee of the autonomy of each government in its own sphere, however, in fact, every government affords local authorities some degree of autonomy, and every ostensibly federal state exhibits (of necessity) a degree of central control (Filippov *et.al.*, 2004, p. 5).

The term 'federal' is derived from the Latin words *foedus* and *fides*. S. R. Davis mentions that, the Latin word *foedus* is translated as 'covenant', and the idea of covenant involves 'the idea of co-operation, reciprocity, mutuality, and it implies the recognition of entities - whether it be persons, a people, or a divine being' (Elazar, 1991, p. 5; Davis, 2005, p. 3; Sakhong, 2005, pp. 12-13). Since the emergence of the modern nation-state, federalism has generally been defined as an approach to government that divides public powers not only horizontally, *i.e.* separation of powers between legislative, administrative and judiciary; but vertically, *i.e.* division of powers between two or more levels of government. In other words, federalism is 'a constitutional device which provides for a secure, *i.e.* constitutional, division of powers between central and 'segmental' authorities in such a way that each is acknowledged to be the supreme authority in specific areas of responsibility' (Alan Smith, 1997; cited in Sakhong, 2005, pp.13). The federal system is considered a device for a stable and peaceful world, humanity today, which offers one possible resource for resolving political, social, and ethnic problems (Elazar, 1991, p. 11). It is not only issues of the constitution, but also several other aspects. Livingston states that:

The essential nature of federalism is to be sought for, not in the shadings of legal and constitutional terminology, but in the forces — economic, social, political, cultural - that have made the outward forms of federalism necessary ... The essence of federalism lies not in the constitutional or institutional structure but in the society itself. Federal government is a device by which the federal qualities of the society are articulated and protected (Livingston, 1956, pp. 1-2).

The federal system has two basic justifications – economic and political dimensions of federalism. The first requires the government's action to resolve those market failures associated with informational asymmetries, externalities, and wholly decentralized decision-making power in public goods by different levels of government. It focuses on the allocation of powers and responsibilities of the state across levels of government according to rational criteria. The second includes those conditions allowing minorities autonomy that they often demand, protecting the political rights of minorities. At least federalism, in theory, allows individuals to join those with whom they share similar tastes for government services, thus opening the door to a general level of welfare and, presumably, a degree of satisfaction with political institutions unavailable to a unitary state (Filippov *et.al.*, 2004, pp. 1-2). In a genuine federal system, neither the federal nor state governments (or, the constituent units) are constitutionally subordinate to the other, *i.e.* each has sovereign powers derived from the constitution rather than from one another level of government, each is empowered to deal with the citizens in the exercise of its legislative, executive and taxing powers, and each is directly elected by its citizens.

Federalism serves four main purposes. Firstly, if any particular society contains a number of distinct cultures, it can guarantee those cultures some measure of self-determination, so that the majority culture will not always be telling them what to do. Second, federalism can give local people the power to handle local problems by utilizing local resources, because they know and understand their problems best, and they can act quickly and without a lot of bureaucratic inefficiency and political hurdles. Third, federalism can encourage local people to become involved in their own government and to solve their own problems, because they know that they have the power and responsibility to do so. And, finally, the local government can act as a check on the central government, because, sometimes, a unitary form of government may forget that it is only the servant of the people, not their masters. So, it is useful to have some local governments, with constitutionally guaranteed powers, to remind the central government that it holds power only on trust from the citizens (Williams, 2005, p. 65).

When federal system of government is designed, the federal designers must pay attention for setting certain agreed principles that can be said to be the principles of the federal state. Generally, such principles cover voluntary association, equality and self-determination, which cannot be achieved in a unitary form of government. The principle related to federalism is that it ensures constitutionally established and guaranteed self-rule and shared rule. In self-rule principle, certain areas of decision-making are within the sphere of the federal units, where such federal units can act without interference by the centre. In shared-rule principle, the constituent units are in decision-making at the federal level, usually through special representation in a second Chamber of parliament (upper house or senate). Through this participation in the decision making in central institutions, federal units have a special say, even in matters of central power (Topperwien, 2009, p. 83).

In theoretical perspective, Nepali people demanded a federal system for inclusion and diversity management within the government system. Diversity is one of the realities of the country, which has to be recognized, celebrated, and accommodated (Hachhethu, 2023). In the foundation of secular, inclusive, federal and republic, Nepal has to achieve national prosperity. There was great debate on designing whether Nepali state has to be restructured on the basis of ethnicity or capabilities.

Nepali Context

Demanding federalism is not a new issue for Nepal. Some ethnic groups demanded the restructuring state for the devolution of power in local level. In the past, Nepal was structured into development regions, zones and districts in order to decentralize power and balance development. Later, outer circle of CPN (Maoist), United People's Front Nepal (*Sayukta Janamorchha, Nepal*) included the issues related to end all forms of caste/ethnic

exploitation and suppression (point 20) and end of discrimination between Hill and Tarai regions by empowering regional autonomy (point 25) into the 40 point demands before launching decade long armed struggle. In later, 12-Point Understanding Concluded between the Seven Political Parties and the Communist Party of Nepal (Maoist), which is one of the foundation of ending armed struggle (signed on November 22, 2005 in New Delhi) pin-pointed about need for implementing the concept of full democracy through a forward-looking restructuring of the state to resolve the problems related to all sectors including class, caste, gender, region, political, economic, social and cultural, by bringing the autocratic monarchy to an end and establishing full democracy.

The Comprehensive Peace Agreement (CPA), which had been annexed as a part of Interim Constitution (IC), stated that 'the state shall be restructured in an inclusive, democratic and looking forward manner in order to end discriminations based on class, ethnicity, language, gender, culture, religion and region and to address the problems of women, Dalit, indigenous people, ethnic minorities (Janajatis), Tarai communities (Madhesi), oppressed, neglected and minority communities and the backward areas by deconstructing the current centralized and unitary structure, the state shall be restructured in an inclusive, democratic and forward looking manner (Point No. 3.5).' On this foundation, the IC was proclaimed with commitment of restructuring the State, but it had not assured federalization of the State. Thus, Madhesi-based parties agitated against the government to ensure federalization of Nepal while restructuring the State.

In order to assure desired of people to have federal system in the line of preamble, the IC assured inclusive and restructured State into a progressive, democratic federal system aiming to end discrimination based on class, language, gender, culture, religion by eliminating the centralized and unitary form of the state (art. 138.1). It further assured that the country Nepal shall be a federal democratic republic by accepting the aspirations of indigenous, nationalities groups, and the people of the backward and other regions, and the people of Madhesi for autonomous provinces. The provinces shall be autonomous with full rights, and the Constituent Assembly (CA) shall determine the number, boundary, names and structures of the autonomous provinces and the distribution of powers and resources while maintaining the sovereignty, unity, and integrity of Nepal (art. 138.2). Looking at the constitutional arrangements from the perspective of federal system of Nepal, the preamble, part 5 (structure of the state and distribution of state powers), and part 20 (interrelationship between the federation, the provinces and the local levels) of the Constitution are more important.

Analysis and Discussion of Nepalese Federal System

Federalism is a system of government that requires a constitutionally divided state's power between the centre and political constituencies. State's power, in the context of Nepal, denotes 'the power relating to the executive, legislative, and judiciary of the state, and includes residual powers. The 2015's constitution maintained separate lists of powers for the federation, provinces and local level created under the constitution. In most federal systems, the federal constitution divides powers between the federal institutions and the constituent units of the federation according to one or more lists of legislative and executive competences that are specified in the constitution (Bulmer, 2017, p.13). While the lists of powers are maintained, in some countries, i.e. USA, there is only one list of power of centre by giving remaining powers to the constituent units. On the other hand, some countries, i.e. the constitution maintained two lists of powers for the centre and provinces, or three list of powers, i.e. Nepal, for the federation (Schedule 5), the provinces (Schedule 6) and the local level (Schedule 8). Besides, the constitution of Nepal also included a concurrent list of powers (Schedules 7 and 9) that allows two or more levels of government to exercise these powers collectively. The powers enlisted in Schedule 7 are given to the federation and provinces, while the powers enlisted in Schedule 9 are given to all three levels of government.

In a federal system, powers are separated and distributed both horizontally and vertically. Separating powers horizontally among the organs of government (legislative, executive and judiciary) is the separation of powers propounded by Montesquieu, which is a fundamental requirement of a democratic system. On the other hand, distributing powers vertically, among the levels of government (federation, provinces and local level) is allocation of powers, which is fundamental requirement of federal system. Thus, in principle, the federal system is an approach to government that divides public powers not only horizontally, but also vertically (Sakhong, 2005, p. 28). It justifies that a democratic federal country must arrange both horizontal and vertical power-sharing among the organs as well as levels of government. The models of horizontal and vertical power-sharing under the federal system of Nepal are as follows.

Constitutionally Power Distribution Framework (Horizontal and Vertical)

Federal Structures	Organs of Government: Legislature, Executive and Judiciary		
Exclusive power	Legislature (Law making power)	Executive	Judiciary
Federation	Federal Legislature	Federal Executive	Supreme Court, High Court and District Court
Provinces	Provincial Legislature	Provincial Executive	Local Judicial Bodies
Local Level	Local Legislature	Local Executive	Judicial Committee
Concurrent Power			
Federation and Provinces Schedule 7	Federal Legislature	Federal Executive	Supreme Court, High Court and District Court
	Provincial Legislature	Provincial Executive	
Federation, province and Local Levels Schedule 9	Federal Legislature	Federal Executive	Supreme Court, High Court and District Court
	Provincial Legislature	Provincial Executive	
	Local Legislature	Local Executive	

Above mentioned boxes/chart clearly showed that state powers have to be exercised by both organs of government as well as level of government. Horizontal power sharing among state's organs prevents state organs from being an autocratic by maintaining checks and balance each other, while vertical power sharing among the level of government prevents power from becoming centralized. In a diverse country, both of these practices help to strengthen democracy and develop access to rights for the people at the grassroots level. In theory, Nepal's federal system appears to adopt both of these principles. However, since federal systems are refined only through practice, it is natural that some ambivalence will emerge in practice.

Legislative Powers

Under the federal system, article 57 and article 59 of the constitution are related to law-making powers of the federation, provinces and local level within their own affairs. Article 57 of the constitution is related to the distribution of powers, while article 59 is

related to financial powers. The distribution of power has been managed in different schedules based on the lists. This article states basically three aspects of the distribution of powers – exclusive powers, concurrent powers and consistent of enacted law. Sub-articles 1, 2 and 4 are related to exclusive powers of the federation, provinces and local level, and sub-article 3 and 5 are related to concurrent powers of two or more level of government, while sub-article 6 and 7 are related to consistency of enacted law. In the case of exclusive powers of federation, provinces and local level, article 57 reads that:

The power of the federation shall be relating to the subjects mentioned in Schedule-5, and such authority shall be exercised in accordance with this Constitution and the Federal law (sub-article 1).

The power of the province shall be relating to the subjects mentioned in Schedule-6, and the exercise of such authority shall be done in accordance with this Constitution and the Federal law (sub-article 2).

Powers shall be vested in the local level on the matters referred to in Schedule-8 and such powers shall be exercised according to this Constitution and Federal law, provincial law and laws formulated by the local level (sub-article 4).

The above mentioned provisions clearly stated that powers enlisted in schedules 5, 6 and 8 are the sole powers of the federation, provinces and local level respectively. The powers enlisted in exclusive list, each level of government is autonomous and independent. But in the case of concurrent power, its nature is different. By nature, concurrent power is given to two or more level of government, and they exercise jointly. In the case of concurrent powers the article 57 states that:

The concurrent/shared power of the federation and the province shall be relating to the subjects mentioned in Schedule-7, and the exercise of such authority shall be done in accordance with this constitution and the laws made by the Federal Parliament and Provincial Assembly (sub-article 3).

Concurrent list of powers of the Federation, province and local level shall be as mentioned in Schedule-9 and exercise of such powers shall be according to this constitution, and Federal law, provincial law and laws formulated by the local level (sub-article 5).

As per the principle of federal system, these concurrent/shared powers are exercised jointly by two or more level by maintaining hierarchy of the government. That means if there is same law made by the federation, there is no need to make any law at the provincial or local

level. Because, in concurrent powers, the hierarchy of government has to be maintained, which has been clearly stated in article 57 of the Constitution. It reads:

While making law by Provincial Assembly, village council and municipal council pursuant to clause (5), they shall have to make laws without being inconsistent to Federal law and if such laws formulated by Provincial legislature, village council and municipal council is inconsistent with the Federal law, such law shall, to the extent of its being inconsistent, be void (sub-article 6).

While making law by village council and municipal council pursuant to clause (5), they shall have to make laws without being inconsistent to provincial law and if such laws formulated by the village council and municipal council is inconsistent with the provincial law, such law shall, to the extent of its being inconsistent, be void (sub-article 7).

Above mentioned provision states that if any subject belonging to concurrent powers, the level of government must coordinate to which these powers are granted. On this basis, while the provincial and local legislature (village and municipal assembly) make any law on the issue related to concurrent power, the local legislature must assured that it is not contradicted with federal and provincial law, while the provincial legislature must assured that it is not contradicted with federal law, otherwise the local law contradicted with federal and provincial law and provincial law contradicted with federal law have to be declared void. But, in case, any power enlisted both in exclusive and concurrent list, the exclusive list has to be prevailed.

The legislative organ of the government is law-making organ in each level of government. Thus, articles 109, 197 and 226 have clearly made provisions on legislative powers of different tiers of government (federation, provinces and local). These article state that:

The legislative powers of the Federal Parliament shall be as enumerated in Schedule-5 (exclusive), Schedule-7 (concurrent) and Schedule-9 (concurrent) (art.109).

The legislative powers of the Provincial Legislature shall be as enumerated in Schedule-6 (exclusive), Schedule-7 (concurrent) and Schedule-9 (concurrent).

The Village Assembly and Municipal Assembly shall make necessary laws on the subjects mentioned in the list of competencies of the local level pursuant to Schedule-8 (exclusive) and 9 (Concurrent).

The federal parliament has power to formulate substantive law, but the procedural part of the law has been enlisted under the concurrent powers of the federation and provinces. Under this power, the federal legislature (parliament) can make any law enlisted in schedules 5, 7 and 9 but it cannot interfere over the exclusive powers of provinces and local level. In same way, the provincial assembly can make any laws if they are included as exclusive power of the province. But, any law made under the concurrent power must not be contradicted with federal law. In the case of local level, local legislature (village assembly and municipal assembly) can make necessary laws on the subjects mentioned as exclusive power, but if local legislature makes any laws related to schedule 9, it should be contradicted with federal and provincial law.

Another aspect of law-making power is legislative procedures. The constitution has clearly explained the law-making procedures at the federal and provincial levels, but it is left in the case of local level. Sub-article 2 of article 226 states that the procedure of drafting of laws pursuant to Clause (1) shall be as provided for in the Provincial law. To fulfil this constitutional mandate, all the provinces have made laws in order to regulate law law-making process at the local level.

Executive Powers

Executive power is the power to execute any law and decision as well as control day-to-day administration. The constitution of Nepal has provisioned to have executive body in each level of government, executive in each level is granted to executive power in respective level. Article 75 of the constitution has made provisions on federal executive which states that:

The executive power of Nepal shall rest with the Council of Ministers in accordance with this Constitution and law.

It further states that:

The responsibility of providing general directives, control and enforcement regarding the governance system of Nepal, by adhering to this constitution and law, shall rest with the Council of Ministers.

In the line of the constitution, the federal executive is apex executive body led by Prime Minister. It exercises the executive powers of the country under the constitution and laws. It represents to the Government of Nepal who discharges functions in the same name. Except constitution and federal law, there is no any authority who can limit executive powers of this organ. In the case province, there is provincial executive led by Chief Minister in accordance to article 162 of the constitution. As per constitutional mandate, the

provincial executive works as Provincial Council of Minister. In this subject, article 162 states that:

The executive power of the Province shall, pursuant to this Constitution and laws, be vested in the Council of Ministers of the Province.

The responsibility for issuing general directives, controlling and regulating the administration of the Province shall, subject to this Constitution and other laws, lie in the Provincial Council of Ministers.

The provincial executive is granted to execute provincial law and decisions who discharges its functions in the name of the Provincial government. Pursuant to the Constitution, the provincial executive is limited in the list of competencies prescribed in schedule 6 (exclusive) and schedules 7 and 9 (concurrent). In the case local level, there is local executive led by Chairperson in Rural Municipality (Gau-palika) and Mayor in Municipality (Nagar-palika) in accordance to article 214. As per constitutional mandate, the local executive works as Village Executive and Municipal executive. In this subject, article 214 states that:

The local executive power shall, subject to this Constitution and other laws, be vested in the Village executive or Municipal executive.

The power of local executive power shall, subject to this Constitution, remain limited to the subjects mentioned in the local level/level competencies in Schedule-8 (exclusive) and Schedule-9 (Concurrent).

The local executive (Village Executive in Rural Municipality and Municipal Executive in Municipality) has to perform the responsibility (issuing general directives, controlling and regulating the administration of Village Council and Municipality) in accordance with the Constitution and other laws in in the name of Village Executive and Municipal Executive. In addition, the decision to be made by the local executive has to be authenticated as prescribed by local law.

Judicial Powers

As mentioned earlier, the federal system requires division of state's power including judicial power into level of government. But, as per the constitution of Nepal, the judiciary is not federalized in real sense, because of its existing unified structures and mandates. In the list of power, the schedule 5 of the constitution included law relating to the Supreme Court, High Courts and District Courts and administration of justice as exclusive power of federation. Article 126 of the constitution has given the powers relating to justice to the

courts and other judicial institutions, which have to be exercised in accordance with the provisions of this Constitution, other laws and recognized principles of justice. For this purpose, article 127 has provisioned to have three tiers of the courts - (a) Supreme Court, (b) High Court, and (c) District Court, who is primarily, responsible to delivery justice in accordance to the constitution and federal law, however, these court hear the cases, in practice, in order to scrutinize provincial and local law under the extra-ordinary jurisdiction. Besides, the other judicial bodies, except regular court, to be formed at the local level also recognize by constitution, but its position under the federal system is still unclear.

The provincial level has no separate judicial body in operational level. Section 5 (1) of Administration of Justice Act, 2016 states that a High Court has to be located in the capital of each province. But it is not court of the province, which is regulated by federal laws as mentioned earlier. In order to provincial judicial body, the Constitution and Administration of Justice Act state that:

Local Judicial Bodies

(Sub-art. 2 of art 148)

The local level judicial institutions established according to the provincial law shall remain under the District Court. The District Court may inspect, supervise and issue necessary instructions to its subordinate judicial institutions (sub-article 2 of article 148).²

Except as otherwise provided in the prevailing law, the District Court shall have powers to hear appeals against decision or final order made by judicial body of local level constituted in accordance with the provincial law (sub-section 4 of section 7).

The Constitution and federal law have imagined judicial bodies at the local level under the concerned provinces, however, they are not yet in practice. Neither provincial law nor institutional body was found in order to implement the provisions of constitution and federal law. In the case of local level, there is a provisions on judicial committee in each local level. Article 217 reads that:

There shall be a three-member Judicial Committee to be coordinated by its Vice-Chairperson in eh case of a Village Body and by its Deputy Mayor in the case of a

² The local judicial bodies have not yet been constitute under the provincial law.

Municipality, to settle disputes under their respective jurisdictions in accordance with law.

The Judicial Committee, under clause (1), shall consist of two members elected by the members of the Village Assembly or the Municipal Assembly from amongst themselves.

As provision of the constitution, each local level has formed and operated judicial committee to exercise judicial powers as enshrined in Local Government Operation Act, 2017. Section 47 of the Act clearly authorized two varieties of complains, the first is the dispute which can be settled through decision, and the second is the dispute which can only be settled through mediation. The section has also clearly enlisted the disputes which have to be decided or mediated by the Committee in accordance to the Act. The Act also prescribed procedures to handle the case registered in the local judicial committee. Besides, each judicial committee has also issued a local Act for handling the case registered in the local judicial committee.

Key Findings and Conclusion

Five Key Findings

The key findings of this paper are followings:

1. Theoretically, federalism has been adopted in Nepal for diversity management and balanced development, but effective changes in these issues have not been achieved. Nepal's federal system has only distributed power at the institutional level; the distribution of power and representation of diverse groups in the state apparatus does not appear to be fair.
2. Nepal's federal system appears to be successful in maintaining balance between its organs at the level of government and delegating authority to the lower levels. However, there does not appear to be a fair distribution of powers and resources among the various levels of government. The federation structure still controls more powers and resources.
3. In the federal system, State's powers are expected to be distributed in sub-political units. But there is still a unified judiciary system in Nepal. There is no judicial body under the provincial political units. In addition, the judicial committee at the local level is not non-political because of its members are affiliated to political positions, on the one hand, and on the other hand, it is not considered a part of regular court.
4. The federal system of Nepal has distributed the legislative powers in the centre and the political unit, however, much powers including concurrent authority and fiscal

powers have been retained by the centre, which make political unit depended in the centre

5. Most powers on judicial matters are exercised under the constitution and federal law. There is a provision in the constitution and law to form local judicial body (art. 148 sub-art. 2) under the provincial law, but neither such laws are made nor local judicial bodies is formed. In the case of local judicial committee of local level, there is high chance to politicize it because of its members affiliated to the election politics.

Conclusion

Federalism is a political system that constitutes two or more levels of government by empowering them to work within their own affairs. As one of the youngest federal states in the world, Nepal's federal system appears to have made the center more powerful. In a matured federal system, it is believed that the second-tier government should be strong, but in the context of Nepal, the provincial level does not appear to be strong in terms of authority and resources. Although the level government should be autonomous in terms of authority and resources, it does not seem to be happening. Since most of the resources are at the center, and due to this fact, the exercise of authority is also seen to be from the center. The center seems to be more dominating position in most issues such as distributing land ownership certificates, investing in education up to secondary level, and concurrent. This could gradually erode the essence of federalism.

Although Nepal's federal structure is said to consist of federal, provincial, and local levels, the establishment and activity of the district structure is equally working. The active presence of the central bureaucracy at the local level, and the presence of the administration, courts, and police at the district level, have led to influence in the effectiveness of the provincial and local levels, which have to be reformed. Although the administration of justice should be pure, impartial, and professional, the judicial organs that administer justice have not been established in the province in accordance with provincial laws. This is because either the federation seems to be dominating the administration of justice, or provincial laws have become limited to procedural matters. There is a judicial committee to administer justice according to the laws made at the local level, but it is not professional but political, and therefore, there is a risk that the administration of justice will not be fair.

To make the federal system successful, it seems necessary to establish harmonious relations between the levels of government. Only through mutual cooperation and coordination of different levels of government, there can be harmonious relations between the people living in a geography. Therefore, a federal system can be successful if there is coordination and cooperation between hierarchical structures and political institutions in accordance with the values and norms of federalism while exercising rights. A federal

system can be successful if there is a study of the problems seen in the implementation of federalism and collaboration to resolve the identified problems. For this, any reforms needed in the constitution, laws, and the thinking of political parties should be made, which may make it possible to strengthen the federal system in the context of Nepal.

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