

## **Full Length Research**

# **Problematic Aspects of Implementing a Federal System in Nepal**

**Santa Bahadur Thapa PhD**

Department of Political Science, Tri Chandra Multiple Campus, Tribhuvan University, Kathmandu Nepal  
Email: drsantabthapa7@gmail.com

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**This research paper deals with the concept of Federalism, its impact on Nepal and how Nepal is facing the Problematic Aspects of Implementing a Federal System in Nepal. This study uses reviews, personal correspondence, and news articles to show that Nepal transitioned from its long-standing feudal system to a federal one. By delegating responsibilities and powers to the state and local governments from the central government, local government officials can make decisions that are better suited to the needs of the local population. The political transition in Nepal has not been without its challenges. The Nepali federal system has been in development for a long time and has made a lot of progress, but it is still susceptible to instability and has some holes, especially for making it work. Thus, the transformation to the democratic federal system has been a topic of concern for Nepal.**

**Keywords:** Federalism, Feudal System, local and provincial governments, Central government, local populations, subnational actors, political transition, issues and challenges.

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## **INTRODUCTION**

The Shah family ruled Nepal as a monarchy from 1768 to 1846. The country was ruled by a hereditary prime minister after the Rana family took power in 1846 until Rana's death in 1951. A coalition of democrats and Shah's heirs overthrew the dynasty, but the democratic experiment was short-lived and the monarchy regained power in 1959. The Maoist Party launched an armed conflict against his government and monarchy in 1996, kicking off a civil war that lasted for decades and resulted in the monarchy's fall and the creation of the Federal Republic of Nepal. The countless demonstrations against the royal authority were this one. Despite the initial turmoil for a democratic government, the nation has made significant political progress since the 2015 adoption of the new constitution. (Pelletier 2021, 2).

The division of sovereignty between central (mostly

state) and peripheral institutions is the foundation of "federalism," which states to the territorial separation of powers. The Latin word "foetus," which means unions, is where the term "federalism" comes from. The assumption that its constituent parts are self-organized and self-managed is the foundation of Federalism (Belbase, 2016, 1).

The following structural characteristics are typically shared by federations as a particular type of federal political system:

- At least two government levels. One for the whole organisation and one for local organizations, which each have a direct impact on the residents of their respective communities.
- Some areas of true autonomy for her two branches of.

government is guaranteed by the formal division of legislative and executive powers and the distribution of revenue sources in the constitution.

- A specific version of the Second Congress that agrees regional viewpoints to be represented by name in the federal decision-making body.
- A supreme written constitution that must be approved by a significant number of constituent bodies and cannot be altered unilaterally.
- Arbitrator (court, Senate, or referendum provision with special powers) (Gyawali, 2018, 3).

In a political system known as "federalism," power is divided between smaller local governments and central government agencies. Federalism seeks to bring people into proximity to the government, which would allow citizens to have more power to speak in the governance. 40 percent of the world's population lives in 27 nations whose governments follow federalist principles. It is commonly believed that large nations with a lot of diversity would be well under a system of federalism. The ideal scenario would permit each group to tailor local governments to their specific requirements rather than requiring each group to adhere to national laws that do not specifically apply to their particular circumstances. (Follesdal, 2003, 2).

## METHODS

The research is based on the study of federalism, its facets, shifting models, and its relevance in today's world. It is an interpretive strategy that focuses on comprehending the meaning of words related to the subject. The study makes use of a variety of secondary resources that are supported by primary data sources. A lot of research is done on a lot of relevant reference books, articles, journals, and reports to get reliable data and do data analysis and interpretation. Interviews with individuals, private, and public institutions about their experiences with carrying out their respective federal functions in Nepal yield primary information. The study employs qualitative data analysis in sincerely of federalism and its facets. As a result, a suitable conclusion is drawn from this investigational study through an in-depth review of several data. Through personal observations, key informant interviews, focus group discussions, and ideas of decentralization, governance, and public management, findings based on qualitative research methods were interpreted in five selected Nepali municipalities.

## Results and Discussion

This study used the problems and prospects of implementing federalism independent variables. Similarly

Independent variables were used in the related component of federalism's implementation, such as the infrastructure, education level, increase in income and expenditure, mobilization of local resources, government service delivery system, time and labor, water supply, production, employment, market access of people, communication, transportation, human resources, development, skill management, distance of services center, facility, local tax, household income, land and its ownership, women's participation, farm size, experience of political system, extension of service center, relationship between political parties and (a) At the time of this Constitution's inception, there will be States made up of the Districts listed in Schedule-4, as stated in the 2015 Constitution of Nepal. b) At the local level, there will be Village Institutions, municipalities, and District Assemblies. In a village institution or municipality, the number of wards is determined by federal law. c) Any Special, Protected, or Autonomous Region can have social, cultural, or economic development standards set by the federal government. d) At the federal, state, and local levels, the freedom, sovereignty, territorial integrity, independence, national interest, overall development, democratic, republican, multi-party, competitive, rule of law, separation of powers, check and balance, egalitarian society based on pluralism and equality, inclusive representation, and identity shall be protected.

In a nation with a wide range of ethnicities, cultures, and social norms, federalism holds value. Federalism seems to be perfect for Nepal because of its many positive aspects, like decentralizing power, meeting local needs, involving the public in development, and protecting ethnic cultures and religions. However, the measures for resolving operational issues are to be taken by government agencies. They ought to distribute federal powers and rights equally among all the state's functional units. However, problems with the viability of federalism in Nepal continue to be raised because of budgetary and agenda issues, ongoing political turmoil, the provincial government's ineffective performance, and shifting public sentiments regarding federal forms. The response to that very question will be made public at a later date.

Thus, it is recommended that Nepali federalism must also include resource allocation and territorial division. We need to exercise caution, given that the number of federal units will continue to rise once we federalize the country. Ethnic-based federalism will open a Pandora's Box and strengthen the concept of competitive federalism. We must establish cooperative federalism. Only cooperative federalism can safeguard the integrity of the nation, foster community harmony, and satisfy people's desire for self-rule. As a result, Nepal's federal system has failed, and we must transcend our narrow and narrow-minded perspectives to work toward the establishment of a genuine Nepali-appropriate federal state.

## 2. Nepalese Scenario of Federalism

Nepal's federal-state structure has long since fallen apart. During the 20th century, the southern *Madhesi* people attempted to form a federation. Over decades, such demand grew throughout the nation and appeared to be mostly reflect the disparity in perception between the nation and the capital. Federalism was one of 40 items on the list when the Maoist uprising broke out in 1996 (Badi, 2021, 2).

According to Bhatpara (2019), this appears to have been a Maoist strategy influenced by *Madhesi* to take advantage of growing discontent and mobilize armed violence, particularly in rural areas. The CPN (Maoist) used the strategy of "embedded autonomy" during the People's War of 1996. They made *Tharuwan, Magarat, Newa, Tamuwan, Kirat, Tamsaling, Kochila, Limbu wanand Madhesh*, independent regions. These are underrepresented ethnic and regional groups who were raised to envision independent nations within their own countries. Throughout the conflict, the Maoists pushed for federalism, but it wasn't until after the riots in *Madhesi* in 2007 that they made it a political issue. Strong ties to hegemony in the region bind the *Madhesi*, who lived in the south near the Indian border. The group will prevent goods from reaching Kathmandu from India, Nepal's largest trading partner. However, it does not appear that this bargaining power over the Maoists started federalism. Instead, it only made its entry into mainstream politics after the war easier.

In August 2007, Nepal became the second nation in Asia to sign the ILO Convention on Indigenous and Tribal Peoples, as Devkota (2022) noted. Indigenous peoples are valued for the significant contributions they make to the development and stability of societies, as stated in ILO 169. The right to self-determination is frequently equated with political autonomy and secession by activists in the latter group.

Khanal (2022) uses a variety of protests, movements, and other means of pressure on the Nepalese government to adopt federal restructuring to define the various characters of a society that is territorially concentrated in various parts of the country. It indicates the need for federal autonomy through various means. As a result, Livingston's socio-economic and cultural theory (1956) of federalism becomes more applicable to the Nepalese context. Nepal eventually adopted a federal system that accommodated the country's diversity out of necessity: its multi-ethnic, linguistic and cultural aspects. In all parts of the country, balanced development, also known as healthy, proportional, balanced and competitive development. Using available resources to achieve balanced, long-term development and devolution at the local and state levels.

## The Federal Democratic Republic of Nepal's Organization

The Federal Democratic Republic of Nepal's main structure comprises the state, federal, and local levels. The powers of the State of Nepal shall be exercised at the state, federal, and local levels under the law and the constitution.

- At the time of this Constitution's inception, there will be states made up of the Districts listed in Schedule-4, as stated in the 2015 Constitution of Nepal.
- At the local level, there will be Village Institutions, municipalities, and District Assemblies. In a village institution or municipality, the number of wards is determined by federal law.
- The federal government has the authority to establish social, cultural, or economic development standards for any protected, Special, or Autonomous Region.
- In an egalitarian society based on pluralism and equality, inclusive representation and identity should be protected at the federal, state, and local levels in Nepal. National Interest, Multi-Party System, Competitiveness, Human Rights, Rule of Law, Federal Government System, Fundamental Rights, Separation of Powers, Control, and Balance, and Territorial Integrity are all aspects of sovereignty. (Forum of Federations, 2018, 3).

## Problems with Nepal's Federalism

In Nepal, the transition from a unitary government to a federal was a drama. With its geographical and ideological framework, it was created in a flash. Leaders of all political stripes touted Federalism as the best strategy for ensuring Nepal's prosperity. However, the provincial and federal governments have been in place for almost two years, while the local governments have been in place for three years. However, it has been extremely challenging for the governments of all three tiers to put federalism into practice. They might largely be based on two main points: border security and financial capability. These two issues pose significant obstacles to the United States' implementation of federalism compared to India, China, and other nations (Pant, 2019, 4).

Federalism is now almost universally agreed upon. Except for a few, almost all political powers oppose the federal structure. By eliminating the state's centralized and unitary structure and reorganizing it into a progressive, democratic federal system, the Interim Constitution of Nepal of 2006 already stipulates that discrimination based on class, caste, language, gender, culture, religion, and region will be eliminated. The Constitution requires the Constituent Assembly to make the final decision regarding the structure of the federal

and state systems.

The political parties in Nepal made their proposals for Nepal's federalism public after the aforementioned provision was added to the constitution. Maoist NCP has proposed three levels of state structure: the center, autonomous republics, and local level. These levels are based on factors like ethnic formation, geographical suitability, basic language, economic possibility, and other factors (Ghimire, 2019, 5).

The party has proposed three substates and 11 autonomous republic states. *Tharuwan, Magarat, Newa, Tamuwan, Kirat, Tamsaling, Kochila, Limbuwan*, and are the states to be formed based on ethnicity, and *Madhesh* is a lingual state. *Seti-Mahakali* and *Bheri Karnali* are the states to be formed based on geography. However, it is proposed to create sub-states based on language in *Madhesh, Mithila Bhojpura, and Awadh*. The Nepali Congress has proposed a state structure with three levels. The party proposes abolishing Nepal's current unitary and centralized state structure to create a federal state with autonomous regions. Nepal's national identity, suitability, linguistic/ethnic/cultural affinity, political/administrative potential, and other factors will serve as the primary foundation for the establishment of an autonomous region. The party has also emphasized the establishment of autonomous, decentralized local units (Sharma, 2020, 6).

In a similar vein, the *Madhesi* People's Rights Forum gives emphasis to the establishment of a "Federal Democratic Republic" with regions that are independent and powerful. As the bodies that are elected by the people to represent them, various legislative assemblies will be established in various regions. To strengthen local self- or autonomous governance throughout the nation, various autonomous regions and districts will be elected by the people under the states. Forum has also demanded that the entire Terai region be incorporated into a single state. The Terai-Madhesh Democratic Party holds the same viewpoints regarding the country's federal structure. Several indigenous groups have called for ethnicity-based states to be established (Shrestha, 2018, 5).

Besides the issues brought up by major political powers, various pertinent issues pertaining to the country's federal structure are identified.

- The nature or foundation of federalism is one issue. Whether ethnic, geographical, or linguistic federations are required? The NCP (Maoist) and ethnic groups, on the one hand, place an emphasis on ethnic federation, while the National Congress places an emphasis on geographic federation. Some parties are unclear about federalism and its foundation.
- Number of alliances are one of the essential issues. NCP (Maoist) has proposed 11 states and 3 substates. The *Madhesi* parties support the formation

of three states—*Madhesh*, Hill, and Mountain. The remaining parties are unsure of the number of federations. However, the number is important because the more states there are, the more money will be needed to run the federations. The nature of their federalism will be affected by the number of federations (Shakya, 2018, 4).

- Another problem with Nepalese federalism is power sharing. A method of distributing power among federating units is known as federalism because the Interim Constitution stipulates the establishment of independent federal states. In addition, the method by which states will divide power remains to be determined, which may generate significant debate.
- Autonomy merits serious discussion. The ability of a unit to decide about its own internal affairs is called autonomy. In Nepalese federalism, some parties have promised that the federation will not only be self-governing but will also be autonomous. Right to self-assurance is the most elevated type of independence. "Self-determination" states to a territory's people's freedom to choose their own political status or to be independent of their current state." This comprises the freedom to choose one's own actions without being forced to do so by anyone else. The Maoist NCP has recognized it as the right to secede, but other political parties disagree. The NCP (Maoist) claim to this right has sparked a lot of debate among political powers (Chukwuemeka & ChMC, 2020, 4).
- Federalism is equally committed to resource allocation and the constitutional division of powers between two or more orders of government. Federalism cannot endure without resource allocation and utilization. The mountain region is known for its herbal products, the hill region for animal husbandry, and the terai region for its food grains in the Nepalese context. Creating federations causes a balanced approach to the allocation of these resources.
- When the country is federalized, the nature of the government may be a significant problem. Whether the state legislature will be bi- or unicameral in structure? What kind of structure will it take—parliamentary or executive-presidential? Will the judiciary be dual or unitary? These are the subjects that merit serious consideration and genuine applications (Poudel, 2019, 7).

### Experiments to Nepal's Federalism

Federalism, notwithstanding being a majority rule legislative system, will confront some challenges. The following are some obstacles to Nepal's federalism:

- Despite being a multireligious, multiethnic, and

multicultural nation, Nepal has maintained a unified culture throughout its history. Every federal unit would face a significant obstacle if they attempted to replace their unitary political culture with a federal culture. Nepal will undoubtedly initially experience competitive federalism, in which the federation's constituent governments may compete with one another to provide a variety of public services and tax structures to improve overall socioeconomic efficiency and effectiveness (Samriddhi Foundations, 2016, 1).

- Over 101 ethnic groups live in Nepal. Each of them has its own culture and ethnic values. Every ethnic group will undoubtedly demand their own federations if federalism is implemented based on ethnicity. As a result, ethnic federalism may cause the formation of many federations (Thapa et al., 2018, 3).
- Political parties and ethnic groups are currently proposing a variety of federalism models. Every side is trying to stick to their own ideas. By accommodating their choices, it will be difficult to reach a consensus among these powers.
- Nepal's federalization is an aspect of the state's reorganization. Article 138 (2) of the 2006 Interim Constitution of Nepal mandates a high-level commission to make recommendations for the restructuring of the state under clause 1. The composition, powers, and terms of service of this commission will be set by the Nepali government. The future constitution's model has been discussed by the constituent assembly. However, the aforementioned high-level Commission has not yet been established. The proposed federalism in Nepal faces serious obstacles because of the government's inaction on this issue.
- Various ethnic and linguistic groups hold a variety of viewpoints regarding federalism. However, political parties do not appear to take this matter seriously. They have been following a policy of appeasement. This kind of policy may have negative effects on the entire constitution-making process.
- A constitution-making process has emerged in Nepal as part of the peace process. However, the conflict between major political powers jeopardizes the peace process, federalism, and making a constitution. (RAO, 2015, 2).

## CONCLUSION

Federalism has turned into a significant plan for constitution making in Nepal. Almost every political force has endorsed this plan. However, that except for the NCP (Maoist), no other political force has articulated its position is an anomaly. Even though some *Madhesi* political parties have called for the creation of a single *Madhesh* State, they have not provided a clear

plan for federalizing the entire nation. Ethnic powers' views of ethnic federalism have risen to prominence compared to political powers. That viewpoint is like the NCP's (Maoist). However, opponents of ethnic federalism contend that it would not work as well in Nepal. People's sense of belonging to a single nation is weakened by federalism because, frequently, their primary (and sometimes sole) loyalty is to the ethnic community to which they belong. When discussing Nepalese federalism, it is important to keep in mind that the political class and intelligentsia have strong reservations about the topic. The NCP (Maoist) has been strongly opposing federalism, describing it as an attempt to divide the nation. The experiences of various federal nations show that, regardless of the motivation, they have federalized the nation that best suits their circumstances.

The development-focused collective approach of all government units can carefully address the flaws of federalism. The development of a prosperous, peaceful, and functioning nation is a common goal that ought to be given top priority, although each nation's model of federalism may differ.

The main aim of this article is to explain the justification of the provincial government in the federal system of Nepal. The number of provinces, the number of MPs elected in the province and the number of ministers of the provincial government are being heard as unnecessary. In addition, the role of the province seems to be minimal, so how effective this system can be for Nepal.

Federalism in Nepal also brought about corruption. In terms of the level of corruption that is measured by the Corruptions Perception Index, Nepal ranked 126 out of 180 countries in 2014 and 113 out of 180 countries in 2019. Although the ranking has improved, corruption is still widespread and persistent in Nepal. Corruption and good governance naturally became major topics of in-depth discussion because of Nepal's 2015 move toward federalization, which was expected to bring about reforms in governance mechanisms.

Discourses about these are an attempt to indicate that local-level corruption need not go unnoticed, despite the persistent belief that nothing can be done on an individual level. Citizens can therefore be more likely to remain informed, aware, civically engaged, and empowered to identify corrupt activities only when discourses are presented. By providing the local population with information and giving them the opportunity to question their government, the media can also play a crucial role in this conversation about fighting corruption. Nepal requires an environment that is conducive to policy reform and increased transparency.

## REFERENCES

- Badi, U. (2021, March 12). *Federalism in Nepal: A country in transition*. International Alert.

- <https://www.international-alert.org/stories/federalism-nepal-country-transition/>
- Belbase, K. (2016). *Federalism in Nepal: Issues and Challenges*. <https://classic.iclrs.org/content/blurb/files/krishna%20belbase.pdf>
- Bhattarai, P. (2019, April 23). *The New Federal Structure in Nepal: Challenges and Opportunities for Quality Governance*. EDP Network. <https://www.external-democracy-promotion.eu/the-new-federal-structure-in-nepal-challenges-and-opportunities-for-quality-governance/>
- Devkota, D. K. L. (2022, April). *First Five Years of Federalism in Nepal*. My Republica. <https://myrepublica.nagariknetwork.com/news/first-five-years-of-federalism-in-nepal/>
- Follesdal, A. (2003). *Federalism (Stanford Encyclopedia of Philosophy)*. Stanford.edu. <https://plato.stanford.edu/entries/federalism/>
- Forum of Federations. (2018). *Nepal proclaims itself a "federal democratic republic."* Forum of Federations. <https://forumfed.org/document/nepal-proclaims-itself-a-federal-democratic-republic/>
- Gyawali, G. P. (2018). Federalism: Challenges and Opportunities in Nepal. *Molung Educational Frontier*, 8, 37. [https://www.academia.edu/49323775/Federalism\\_Challenges\\_and\\_Opportunities\\_in\\_Nepal](https://www.academia.edu/49323775/Federalism_Challenges_and_Opportunities_in_Nepal)
- Pelletier, J. (2021, July 2). *The Challenges and Opportunities of Nepal's Nascent Federal System - Forum of Federations Blog*. <https://forumfedblog.org/nepal-challenges-and-opportunities/>
- Pant, S. R. (2019, November). *Opinion | The problems Nepal faces in implementing federalism*. Kathmandupost.com. <https://kathmandupost.com/columns/2019/11/09/the-problems-nepal-faces-in-implementing-federalism>
- Ghimire, T. N. (2019). Issue of Federal System in Nepal. *Tribhuvan University Journal*, 33 (1), 155–166. <https://doi.org/10.3126/tuj.v33i1.28690>
- Shrestha, R. (2018, August 7). *How Nepal is Facing the Challenges of a Federal System*. Development Asia. <https://development.asia/policy-brief/how-nepal-facing-challenges-federal-system>
- Shakya, P. (2018). *Challenges and Prospects of Federalism in Nepal*. <https://reliance.com.np/reliance/wp-content/uploads/2017/05/Challenges-and-Prospects-of-Federalism-in-Nepal.pdf>
- Chukwuemeka, E. S., & ChMC. (2020, May 17). *Advantages and Disadvantages of Federal System of Government*. Bcholarly. <https://bscholarly.com/advantages-disadvantages-federal-system-government/>
- Poudel, Prof. D. D. (2019). *Nepal: Failing Federalism—Telegraph Nepal*. <http://www.telegraphnepal.com/>. <http://www.telegraphnepal.com/nepal-failing-federalism/>
- RAO, M. G. (2015). Fiscal Federalism: Opportunities and Challenges for Nepal. *Economic and Political Weekly*, 50(10), 30–35. <https://www.jstor.org/stable/24481453>
- Thapa, R., Bam, K., Tiwari, P., Sinha, T. K., & Dahal, S. (2018). Implementing Federalism in the Health System of Nepal: Opportunities and Challenges. *International Journal of Health Policy and Management*, 8 (4), 195–198. <https://doi.org/10.15171/ijhpm.2018.121>
- Samriddhi Foundations. (2016, May 22). *Competitive federalism*. Samriddhi Foundation. <https://samriddhi.org/news-and-updates/competitive-federalism/>