

Federalism in Nepal: Achievements, Challenges, and the Road Ahead

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In the aftermath of Nepal's constitutional transformation in 2015, the adoption of federalism marked a significant departure from a unitary and centralized system. This move aimed to address cultural autonomy and mitigate conflicts among the diverse ethnic groups within the country. The establishment of a three-tier government—comprising local, provincial, and federal entities—with clear constitutional delineation of powers and responsibilities represents a major achievement in restructuring Nepal's governance.

Further advancing this paradigm shift, the unbundling exercise conducted to elaborate on exclusive and concurrent powers has contributed to the prevention of potential disputes between the various government levels. Through this process, the Constitution outlines the exclusive and concurrent powers, and additional legislative frameworks such as the Allocation of Business Rules, Intergovernmental Fiscal Arrangement Act 2017, and Local Government Operation Act 2017 have been put in place. This has provided clarity in the distribution of responsibilities among the federal, provincial, and local governments.

Along with institutional restructuring, staff management have been pivotal in facilitating the transfer of constitutional powers and responsibilities to sub-federal levels. The completion of staff adjustments, with 138,622 fixed positions, has indicated a successful transition of powers. The willingness of high-ranking officials to move to provincial and local levels reflects a positive shift in administrative dynamics.

Similarly, the implementation of fiscal federalism, as outlined in the Constitution, has been a noteworthy achievement. Provinces and local governments receive various grants, including fiscal equalization, conditional, special, and matching grants. The formation of the National Natural Resources and Fiscal Commission has played a crucial role in facilitating fiscal transfers and managing budget deficits at the provincial and local levels.

Moreover, the establishment of intergovernmental relationship agencies, such as the Inter-Provincial Council and Intergovernmental Fiscal Council, is a testament to Nepal's commitment to fostering consultation and coordination between federal, provincial, and local governments. These institutions provide platforms for resolving political disputes and ensuring effective fiscal management across different government levels.

Challenges and Issues in Intergovernmental Relationships:

Despite these achievements, the implementation of federalism in Nepal has encountered various challenges and issues. Foremost among them is the persistence of a centralized mindset from the pre-federalization period. Despite the constitutional provision of three tiers of government, there is a perception that sub-federal governments are treated as subordinate to the federal government.

Similarly, staffing challenges at sub-federal levels have been a prominent concern, with complaints about inadequate staff and dissatisfaction arising from the lack of consultation during staff transfers. Concurrently, the maintenance of a heavy institutional structure at the federal level has raised concerns about unnecessary centralization. Reports from the Public Expenditure Review Commission suggest that the federal government has entered the jurisdiction of sub-federal levels, hindering the intended decentralization process and potentially compromising the spirit of federalism.

Accusations of expensive federalism have also surfaced, with concerns about the over-organized structure at the federal level. The increased number of ministries, departments, and staff is seen as contradictory to the intended decentralization goals of federalism. This coupled with the fact that delays are occurring in the formulation and implementation of laws, especially related to federal civil service and principles for local services, have created challenges. The absence of federal laws on concurrent powers has impacted the functioning of provincial and local governments.

Not just that, the formulation and implementation of plans have encountered issues, with complaints about the lack of consultation and coordination between federal, provincial, and local governments. The change in the planning and budgeting system from bottom-up to top-down has created problems and hindered effective cooperation. Concerns regarding limited revenue-raising authority for provincial governments and overlapping powers between local and provincial governments regarding revenue-raising powers have been reported as issues.

The continuation of controversial programs, such as the Local Infrastructure Development Partnership Program, has created issues at local and provincial levels. Complaints about the lack of resources for other programs due to the priority given to such programs have been raised. The transfer of assets, liabilities, and budgets from sectoral ministries of the federal government to local governments, as mandated by the Local Government Operation Act, has faced delays, causing grievances.

Likewise, provincial governments face challenges in providing land to investors for industrial development due to complexities in acquiring land. The need for federal government intervention in land acquisition has been emphasized. Complaints about the federal and provincial governments establishing parallel offices in districts, conflicting with the powers of local governments, have been reported. The formation of offices without proper coordination has raised concerns about the spirit of federalism.

Prospects and the Way Forward:

Addressing ongoing challenges and fortifying the effectiveness of federalism in Nepal demands strategic attention in several key areas. A fundamental aspect is the imperative need to reduce centralization, necessitating concerted efforts to streamline the institutional structure and civil service at the federal level. In alignment with recommendations from the Public Expenditure

Review Commission, this reduction aims to enhance efficiency not only at the federal level but also permeate through to the provincial and local government levels.

Simultaneously, the sustained activation of intergovernmental institutions is crucial for the collaborative success of Nepal's federal structure. The Inter-Provincial Council, Intergovernmental Fiscal Council, and Provincial Coordinating Council must be consistently activated. To facilitate regular discussions and collaborative problem-solving between different government levels, the establishment of these institutions with a permanent secretariat is not only advisable but essential.

Paramount to the success of Nepal's federalism is effective fiscal resource management. While acknowledging the indispensability of fiscal transfers, a gradual reduction in conditional grants and a simultaneous increase in unconditional grants are warranted. This strategic shift aims to promote fiscal equalization, ensuring a more balanced distribution of resources. Additionally, both levels of government must broaden their revenue bases to foster financial sustainability and independence.

Integral to the structural framework is the establishment of transparent planning and implementation processes. A planning and budgeting system that involves bottom-up participation is not just beneficial but crucial for the success of the federal structure. This entails implementing national-scale projects at the federal level, inter-local government projects at the provincial level, and local government projects at the grassroots level. Such an approach ensures inclusivity and a comprehensive understanding of diverse needs.

To fortify the fabric of Nepal's federal system, proactive measures must be taken to avoid jurisdictional conflicts. Establishing legal provisions that proactively prevent one level of government from infringing upon the jurisdiction of another is imperative. Recognition and respect for the existence and responsibilities of each level of government becomes the keystone for the successful and harmonious operation of federalism in Nepal.

Concurrently, the ongoing process of enhancing public trust in the new system of government necessitates continual attention. Active participation, transparency, and responsiveness to public concerns constitute the bedrock for building and maintaining trust. Constructive discussions among all stakeholders are essential in shaping a governance landscape where the public's confidence is not only earned but sustained.

In conclusion, while federalism in Nepal has achieved significant milestones, addressing challenges and seizing opportunities for improvement is crucial for the successful implementation of the federal system. The prospects lie in reducing centralization, fostering active intergovernmental institutions, transparent planning, and a commitment to respecting jurisdictional boundaries, ultimately enhancing public trust in the federal structure.