

Prospects/Problems of Federal Democratic Republican Governance in Nepal

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Article History

Received: 01/03/2023

Accepted: 07/03/2023

Published: 09/03/2023

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Abstract

Corporate, national, international, and local level settings are just a few of the contexts in which governance can be used. This paper appraises prospects/problems of federal democratic republican governance in Nepal. In doing so, we used library based review method and secondary sources of information collected from historical practices of local governance, Local Self-Governance Act of 1999 and other relevant policy documents and report. The study found that Nepalese governance has gone through several phases, including monarchy, democracy, one-party rule, multi-party politics and federalism. Decentralization has been replaced by a republican democratic union government through new constitution 2015. The federation, provinces and local levels are functioning devolved power/jurisdictions including concurrent powers/jurisdictions. Governance system is functioning against central ruling structures, offering decentralized forms of public service delivery system. However, institutional capability, concurrent power/jurisdictions, human resource management, public service delivery functions, fiscal and financial management, revenue collection and mobilization, qualification of elected representatives, geo-politics, collaborations among the three tiered government and government responsibility are found major problems of federal government in Nepal. For this strong political will administrative honesty and civic concern and vigilance and fair distribution of the benefits of democracy is essential for achieving the goals of socialist-oriented federal democratic republican governance system at the federation, Provincial and local level.

Keywords: Governance, government, decentralization, federalism, prospect, problem

INTRODUCTION

The governance is "decentralization and relational administration," whereas the thematic meaning of government is "control and dominion" (Ekpo, 2008). Theoretically, governance is a classical tools of state regulation (Rosenau et al., 1992) that acknowledges the capacity to accomplish goals by using its autonomy (Stoker, 1998). The foundation of governance is the recognition that the people cannot be served by the government in every way; as a result, for the state to survive, it must also rely on the other spheres of society (UN, 2023). The term "governance" can be applied in a variety of settings, including corporate, national, international, and municipal ones.

Government, on the other hand, refers to a central organization that has authority over its constituents. It is a tool designed to operate along the lines of "command and control," with the government in charge of the affairs of the populace. Conversely, the World Bank stated in 1989 that "a crisis of governance" was at the root of "the litany of Africa's development challenges." (WB, 1989, pp. 60-61). Since then, "good governance"... has taken on the stature of a mantra for donor organizations as well as donor countries," according to Nanda (2006, p. 269).

Even in Nepal, the country was changed to a federal composition in order to achieve the goals of relative development in all of the country's regions by effectively allocating and mobilizing capital and minimizing economic, social, and religious discrimination (Bhatta, 2008). The Federal Government, Provincial Government, and Local Government are the three tiers of the central government in Nepal, according to the Nepalese constitution from 2072. All the entities such as state provinces and local government allocate the power with a state government (Bajracharya 2011). In the changing environment and structure, the signal role government has been replaced by the multi-role private sector nongovernmental organization and the international community.

It seems that Nepal's constitution, government policies and programs, and the current budget should also promote the concept of multi role in governance by increasing the effectiveness of Governances Actor and the concept of less governance is the best government. However, a common complaint is that governance is weakening due to lack of mutual coordination understanding, and cooperation between state and non-state institutions. The primary statutory safeguards for good governance in Nepal include the 2015 Constitution of Nepal, the Commission for the Investigation of Abuse of Authority Act, the Prevention of Corruption Act, the Public Procurement Act and Rules, the Good Governance Act, the Right to Information Act and Rules, and the Local Government Operation Act, among others. Yet, Nepal's good governance cannot be ensured by the legislative requirements and practices alone (Lamichhane, 2019). While it is full of contrasting values and ambiguities, there are many different types of good governance (Trommel, 2020). Moreover, Shah and Shah (2006) contend that Nepal's implementation of federalism is a recent pioneering system that lacks sufficient experience.

Objective and Methods

This study's main goal was to evaluate the opportunities and issues with federal governance in Nepal. This was accomplished by using a library-based research strategy, in which the necessary data were gathered from secondary sources. The Central Bureau of Statistics, the Center for Economic Development and Administration, the Nepal Rasta Bank Library, the Central Library of Tribhuvan University, and the National Planning Commission are among the informational sources. In addition, the Local Self-Governance Act of 1999 and its historical practices of local governance were also examined.

Results and Discussion: Historical Context

Local government before 1950s. Thum and Panchali had existed as local governance during Kirant's rule. Thum served as the Ilaka level local body while Panchali served as the lowest local body. The head of the local bodies was a man named Paantimyangha who was chosen by the residents. Similar local bodies existed under Litchhabi's rule: Gram, Tal, and Dranka. Gram can be compared to the village level, Tal to the communal level of villages, and Dranka to the governing level of a densely populated area. Similar to this, there were three distinct local units throughout the Malla era: Bhukti, Bishaya, and Gramkeshtra. For local development and

justice, Panchali and Panchaasamuchchaa were provided. Members for these organizations were chosen from Center (Khanal, 2003).

Local government after 1950s. Local Panchayat was founded as a local body after the Rana regime was abolished in 1950 with the advent of democracy in Nepal. After the oligarchic Rana dynasty was overthrown in 1951, a brief era of Westminster-style parliamentary government continued until 1960.

At the district level, a District Development Board was established, made up of representatives from the local level, associated line agencies, and concerned experts. As the executive officer charged with overseeing the districts' development initiatives, the Badahakim (CDO) was formally proclaimed the Board's ex-officio chairman. The District Development Officer (DDO) was chosen by the center. In the first decade of democratic practice (1950–1960), the democratic institutions underwent a period of transition during which the government implemented a number of improvements to democracy.

In 1957, the Administrative Reform Planning Commission made the suggestion that village development programs be organized in a hierarchical approach. In 1959, the newly elected administration made some progress toward promoting local self-governance. Seven provinces, 32 districts, 76 sub-districts, 165 blocks, and 65 Gram Panchayat were established to share central authority with the local divisions for the effectiveness and democratization of governmental procedures.

Local government and panchayat system (1960 – 1989). The first democratic era, which lasted from 1950 to 1960, was still a transitional time in Nepal's history of democratic practices (Khanal, 2003). Government remained unable to create a conducive atmosphere for citizens' involvement in governance and local development. The unneeded antagonism between the political parties and the king at the time was reflected in the political climate in Nepal at the time. Nepal returned to the monarchical autocracy on December 15, 1960, which persisted for an additional 30 years.

In 1960, King Mahendra overthrew the nation's first democratically elected government. The following year, in 1961, he established a "National Guidance" system that relies on Panchayats that were directly under his command. He founded the Panchayats, a party-free government, to provide the impression of decentralization. The Monarch created 14 zones and 75 districts as the country's administrative divisions during this time. The Panchayat system was dictatorial, although the rulers insisted it was democratic, and numerous commissions and programs were set up between 1963 and 1981. The Krishna Prasad Bhattarai-led administration enacted the 1971 VDC, Municipality, and DDC Act during the Panchayat elections (Dhungel, 2007). Up to 1990, there was a Panchayat political system. Nepal's multiparty democracy and constitutional monarchy were restored during the People Movement of 1990. Here are the main initiatives that the Panchayat system has put into place:

Local government after 1990. Following the ratification of the new constitution in 1990, District Development Committees (DDCs), Village Development Committees (VDCs), and Municipalities were established under separate DDC, VDC, and municipality Acts that were passed in 1991. The Local Self-Government Act of 1999 and its Regulation of 2000 provided local governments with a thorough and integrated legislative framework to develop toward more independent local organizations with the capacity to manage their own resource mobilization of human and financial resources. The armed struggle (1996–2006) between the government and Maoist insurgents in the 2000s harmed local administration in spite of these intentions and methods (World Bank, 2014).

By decentralizing power, the Panchayat was attempted to be strengthened. Local government regained strength in 1990 after democracy was restored. Local Panchayats were renamed as Village Development Committees (VDC) and Municipalities, with District Development Committees (DDC) acting as an intermediate governmental body. Elections were held on a regular basis in 1992 and 1997, correspondingly. The Local Self-Governance Act (LSGA), passed by the national parliament in 1999, gave local governments more power and responsibility while also ensuring a higher proportion of women were elected to local elected bodies.

Locally elected officials, especially elected representatives, were primary targets during the Maoist insurgency (1996–2006), which presented serious violent threats to such bodies. As a result of the monarchy resuming direct authority and the Maoist insurgency, democracy was overthrown in 2002, ending the tenure of elected officials. In their strongest regions, the Maoists set up a parallel government because elections could no longer take place. The violent conflict had a substantial negative influence on local administration for more than 15 years, causing the majority of government institutions—including the staff of VDCs, health centers, and banks—to move to district offices or other, more secure urban areas. In November 2005, the leaders of the seven political groups who comprised the defunct legislature signed a 12-point agreement with the Maoists, and together they planned the sizable protest that eventually led to the king's abdication and the reconstitution of parliament. The newly elected House of Representatives adopted a motion stripping the King of all power granted to him by the Constitution of Nepal of 1990 and promising to select a Constituent Assembly (CA) to write a new constitution.

Local government under federal system. The jurisdictions of the local governments are substantially greater in terms of land and population under the new framework, which represents a significant change in the organization of local governance (**Constitution, 2015**). The Government of Nepal formed the Commission for Restructuring of Villages, Municipalities, and Special, Protected, and Autonomous Areas on March 15, 2016. The Commission, officially named as the Local Level Restructuring Commission (LLRC), had a one-year mandate and

was in charge of deciding how many local governments would be allowed under the new governance structure.

The LLRC's selection of the new system of local government resulted in the creation of 753 local government entities throughout the seven provinces. The 753 LGs are a considerable decrease from the 3,157 VDCs and 217 municipalities in the prior system. They are made up of 460 Rural Municipalities (Gaunpalika), 276 Municipalities (Nagarpalika), 6 Metropolitan Cities (Mahanagarpalika), 11 Submetropolitan Cities (Upamahagarpalika), and 276 Municipalities (Nagarpalika) across 77 districts.

The mayor, deputy mayor, chairperson, and vice chairperson make up the District Assembly in each of the country's 77 districts. The District Assembly elects a District Coordination Committee (DCC), which acts as the district's executive body. A maximum of nine people can serve on the DCC, who are chosen by the representatives of municipal or rural municipal assemblies. These individuals must consist of a Head and Deputy Head, at least three women, one Dalit, and one or more minority group members. The Constitution, which specifies the functional duties of each level of government, assigns 22 specific powers to local government, including management of local services, local development projects and programs, elementary and secondary education, basic health and sanitation, and local economic development. Matters that are not included in lists of concurrent authorities at the federal, provincial, local, or state levels are assigned as federal powers and duties (LGOA, 2017).

Prospects of Federal Governance in Nepal

Against Central ruling structure. One of the most important aspects of federalism is the division of authority between the national government's two branches, the local government and the provincial government, as well as the state and provincial governments.

Opportunities. Federal democratic scheme expands the opportunities for community. This method participates in the different levels of government. It creates an opportunities to political, managerial, and as an entire to the local governmental bodies.

Clash Management. By enabling distinct communities and states to create their own unique policies, they consent to letting people with fundamentally incompatible differences or exceptionally well-built conflicts live in separate communities and create their own unique solutions or policies that would be wholly obnoxious to the other residents of new states or regions of the country.

New sensitivity towards resident. The regional and municipal governments can respond to the needs of the populace better. The more responsive a government body is to its constituents, the more probable it is to act to meet those demands. States have a greater tendency than the federal government to pay attention to and respond to the concerns of the populace.

Balance Development. Increase in a manner that is similar to and consistent with equitable behavior toward the working class or grassroots level is one of the primary descriptors of the federal system. According to the Nepalese constitution, locals would be included in the development of the entire segment at all growth steps and phases.

Preservation of variety. The 1990s were constitutionally complex declared Nepal to be a multilingual, multi-social group country but failed to uphold the liberties of all groups, including women, madeshi, dalit, and people from various ethnic groups. Yet, the Nepalese constitution of 2072 holds that a federal system will uphold all of their rights and respect their historic and cultural traits by establishing sensible local rules and regulations.

New Democratic Practices. One of the main functions of a democratic system is the decentralization of political, economic, and judicial power. The new constitution of Nepal will give the executive, judicial, and legislative branches of government more authority as well as assign all-important central leadership functions to local levels through a federal democratic structure. This makes it the world's best democratic practice. People will become more responsible and add more "we" sentiments to the process of national growth with the aid of this kind of power distribution procedure. Effective service delivery should be transformed by the government at the local level inside the federal democratic governance system. On the other hand, it is also necessary to link an additional performance system. A strong governance structure is essential to both economic growth and social integrity (UNCDF, 2004). Because problems and opportunities are intertwined, if problems are not resolved, opportunities for social transformation cannot move forward.

Problems of Federal Governance in Nepal

Low Institutional Capability. A suitable institutional framework, necessary laws, regulations, and mechanisms for their implementation, the use of information technology in systems and processes, sufficient financial resources, qualified human resources with clearly defined roles, and a framework for performance management and accountability are all required for the effective administration of assigned revenue sources. The majority of local governments have weak institutional competence. A completely new institutional structure is required for provincial administrations. The new constitutional reform process, which resulted in the creation of a new federal structure, gives Nepal a tremendous opportunity to concentrate on the effective and professional delivering of public services and goods, promote full economic development, and address the needs of various communities (Sharma, 2004). Setting up the crucial institutions, procedures, and policies for the federal structure is the administration's challenge.

Argue in reform: One of the key tasks still to be completed was determining the ultimate number of provincial states and delineating the boundaries between the constituent parts based on factors like as ethnicity, language, geography, and resource

distribution. Conflict also exists on the naming procedure (Devkota, 2010). The demands of the Madeshi parties, one Madesh and one Pradesh, are completely unrealistic. Similar to this, other national parties are also advocating on behalf of the provinces associated with caste- and ethnicity-based systems, which will make it more difficult to address those whose voices are not being heard equally.

Inequalities between different states. It permits disparity between various states and provinces. As education funding is a state-by-state matter, for instance, some states may spend more per person on educational purpose than that of other states, creating what can be referred to as a disparity. The same holds true for other factors as well, including taxes, health care initiatives, and welfare initiatives.

Touching the state policies. The states may actively work to prevent the enforcement of particular national and state laws, challenge them in court, and make an effort to do so or even block national law enforcement on purpose.

Difficulties for the Human Resource Management. For putting into effect the municipal, regional, and federal systems. All sectors, both bureaucratic and non-bureaucratic, would have significant resource needs. So, present bureaucrats can avoid making decisions at the center, and the central government cannot recruit a qualified candidate all at once.

Fragile public institutions and service delivery system. District and regional offices that were formerly under the control of federal domain ministries have been closed as a result of the decentralization of authority and functions. Due to the province governments' recent establishment and the lack of institutional capacity on the part of local governments to carry out all the given duties, service delivery has been hampered. The municipal government's ability to function has also been hampered by a lack of personnel and the inexperience of some staff members. The Staff Adjustment Act of 2017 permits the federal government to transfer employees who were previously employed by the federal government to local governments, but the process has taken too long due to a number of issues, including staff resistance to relocate to local governments in remote areas, a lack of high-quality services (schools, hospitals), and the perception that those who are assigned to local governments are underperformers (Joshi, 2065). Also unenacted is a new federal civil service legislation. Following the federal act, the provincial government will draft its civil service laws.

Financial burden. Another significant barrier to the federal system is the cost (Lamichhane, 2011). For the expansion of the infrastructure and for each elected official at the three different levels—central, provincial, and local—massive sums will be spent on a daily basis. According to the current political dispute, the government has been functioning at a high cost ($753+7+1=761$), and all of the members are anticipating increased government spending with three tires of government if the discussion is

resolved. General, development, and financial management of resources are all complicated.

Conflict in collection of revenue system. For the country like Nepal with small economy. Immediate resource management is complex and challenging. In such a situation federalism should be accelerated by mobilizing not only internal but also external resources. Due to the new practices for the country. Even if the immediate management is complicated in between three tier of government. When revenue, taxes, and other charges are going to be collected and shared with the central government, the economic-related policies may be in question. The central or local government would be perplexed about where tax and income will be collected due to a lack of effective tax and revenue policy by whom, also?

Difficulties for resource mobilization. Resource mobilization in the federal governance system is a discussion of how to use and distribute accessible and natural resources in the most effective way. One state is not allowed to share its earnings or benefits from its own resources, which can include natural resources and industrial activities. While looking at Nepal generally, we can see that Madhesh Pradesh is the country's primary industrial region, but the province government there is unable to share its gains with neighboring states, which could lead to future disputes. The ability of other states to exploit resources from other states is yet another factor related to resource usage.

Without qualifications elected/selected member. Due to the majority of elected/selected members' lack of legal expertise and planning/implementation process knowledge, it is extremely difficult to practice local governance in Nepal under the federal system. We are unable to envision a federal system being implemented in a short amount of time by uninformed, unqualified representatives from various political parties. In order to become professionals, they may need to study and consult with experts for a while.

Use as playing field: In terms of its federal political structure, Nepal is like a newborn infant. The federal system is new to all of the lawmakers, therefore in the interim, foreign affairs may use our state to its detriment. Similar to how India can help establish a beneficial climate in Madhesh Pradesh, China can do the same in the region's northern region.

Alliance for federal governance system. Although there are still anti-federalism parties in our nation, such as the Rastriya Janamorcha Party and the Rastriya Swatantra Party, they are negotiating to create a unitary governmental structure. As a result, there are certain issues with this arrangement (UCLG, 2010).

Less reflexive governance. Contrarily, Giddens (1994) argues that reflexivity refers to modern people's enhanced capacity to consider their values, motivations, and intents as well as any potential societal repercussions of these behavioral drives. Giddens argues that this potential distinguishes late modernity from simple

modernity. People have evolved into "intelligent people" capable of considering self-created issues.

Conclusion

The journey of Nepalese governance passes from monarchy-democracy to one-party-multiparty in general and federal governance in particular. The country has made a leap from decentralization to republican democratic union governance system. Through the cooperation, coexistence, and coordination across the federal, state, and local levels, the new constitution of Nepal aims to offer accessible, responsible, and qualitative public service delivery functions. The local governance system also started experiencing highest form of decentralization through implementing devolved power/jurisdictions and decentralized form of public service delivery system. However, institutional capability, concurrent power/jurisdictions, human resource management, public service delivery functions, fiscal and financial management, revenue collection and mobilization, qualification of elected representatives, geo-politics, collaborations among the three tiered government and government responsibility are found major problems of federal government in Nepal.

Besides, Nepalese people are nonetheless concerned about the challenges law enforcement forces have in responding to increased crime rates and violations of human rights. News of severe crimes in the nation is virtually always reported in the media. People-oriented governance, which includes people's Right, Voice, and Choice, has the goal of citizen satisfaction morality, and national building. The administration and other political leaders should be concerned about the state of the economy and the deteriorating law and order. The government should integrate factors from the economic, cultural, social, political, historic, and structural spheres to tackle the primary governance concerns. The development indicators like; quality and vocational education, rural roads, irrigation facilities, fundamental health services, livestock services, and easy market access should be the priority of federal governance. For this strong political will administrative honesty and civic concern and vigilance and fair distribution of the benefits of democracy is essential for achieving the goals of socialist-oriented federal democratic republican governance system at the local level.

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