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### Fiscal interrelationship between Local, Province and Central Government of Nepal

### By

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### Article History

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#### Abstract

Different types of rules regulations and commission has formulated differently and provide different types of grants. Interrelationship between theirs like National Natural Resources and Fiscal Commission act, Local Government Operation Act (LGOA), Fifteenth Plan, Achievements through IGFT, Intergovernmental Transfers (budgeted) Vertical Shares, Allocation of revenue among the three-tier of Government of Nepal, Provision of Revenue Distribution between Central, Province and Local government Fiscal Transfer Fiscal Equalization Grants, Conditional Grants, Matching Grants, Special Grants are the types of Fiscal Transfer. Provinces and local governments also received unconditional grants based on expenditure needs and revenue capacity.

Keywords: Rules, Regulations, Act, Commission, Local, Province and Central Government

#### 1. Context

This article is related secondary information and focus three - tier of government fiscal transfer in Nepal. The National Natural Resources and Fiscal Commission Act (NNRFCA) has been formulated to provide necessary arrangements regarding the functions, duties, and powers of the Commission as per the provisions of 250 and 251 of the Constitution. This Act has arranged the institution for intergovernmental fiscal transfer and included office and meeting process. It has managed the mobilization of Natural Resources, Revenue Distribution, and Grants and included bases to be taken during the mobilization of Natural Resources. In Chapter-2 section 3. The followings rights, functions, and duties of the Commission are mentioned: to make recommendations to the States in relation to the fiscal equalization grant to be provided by the States to the Local Level in accordance with State Laws. To set bases for determination of the conditional grant to be provided by the State to the Local Level in accordance with State laws and to make recommendations to the State on same. To facilitate and provide assistance necessary to resolve disputes between the Government of Nepal, State or Local Level relating to the distribution of revenues. To make suggestions to the Government of Nepal, in relation to the grants to be provided by the Government of Nepal to the State and Local Level, to provide necessary suggestions to the Government of Nepal and to the States, as requested by them, in relation to the distribution of revenues. To provide necessary suggestions to the Government of Nepal, State, and Local Level in case of suggestions requested by them in relation to the taxes levied by them, to make suggestions to the Government of Nepal, State, and Local Level in relation to the protection and utilization of Natural Resources.

Section 16(1) of the Act has mentioned the following criteria to be considered while recommending fiscal equalization grant

- Human development index such as education, health, and drinking water in province and local level
- Status of balanced development of other province and local level
- Socio-economic and any other forms of discrimination/disparity existing in province and local level
- Services to be delivered by the provincial and local level
- Status and capacity of revenue collection of province and local level





• Expenditure needs of the province and local level

Bases to be taken during the mobilization of Natural Resources are included:

- status of Revenue and capacity to collect it,
- capacity to make investments,
- portion to be obtained,
- portion of consumption made from the portion obtained,
- condition of infrastructure and necessity,
- Economic condition and geographical terrain.

The portion of returns to be received from the mobilization of Natural Resources shall be determined by the Commission on the following grounds and recommendation of the same shall be made to the Government of Nepal: -

- situation of mobilized natural resources,
- area affected due to the mobilization of natural resources,
- dependence upon the mobilized natural resources,
- population benefitting from the results,
- population dependent on the natural resources,
- Participation in the protection and sustainable management of natural resources.

Bases to be taken during distribution of revenues:

- population and demographic details,
- territory/area,
- Human Development Index,
- requirement of expenditure,
- attempts made for revenue collection,
- infrastructure development,
- Special condition.

Bases to be taken while making recommendations for grants:: -

- Human Development Index like education, health, drinking water within State and Local Level,
- situation of balanced development within other State and Local Level,
- situation of economic, social or any other discrimination prevalent within other State and Local Level,
- situation and necessity of infrastructure development of State and Local Level,
- services to be provided by the State and Local Level to the citizens,
- situation of revenue of the State and Local Level and their capacity to collect it,
- necessity of expenditure of the State and Local level
- **1. Objectives:** Find out interrelationship between grant allocation of three tiers.

#### 2. Method used and result analyzed

Local Government Operation Act (LGOA), 2017. It has laid out details of functions, procedure, and institutional aspects of the local government. The LGOA has covered the fiscal rights and procedure for taxation of the local government. Right of property

tax, land tax, land, and house rent tax, business tax parking fee, service fee are included in this act. This act has provisioned the collection and distribution system of local revenue.

The Fifteenth Plan (Fiscal Year 2019/20 – 2023/24). Government of Nepal has taken the following vision, goal, objectives, and strategies to make strong fiscal federalism and for enabling the federal, provincial, and local level governments to exercise their rights including the right to mobilize resources necessary to carry out their mandates.

Vision: Building a prosperous and socialism-oriented economy through fiscal federalism

Goal: To have a balanced and fair development according to the federal system through the equitable and judicious mobilization of all kinds of resources available within the country To make resources available in a just, balanced, and complementary manner so as to address the expenditure needs of federation, province, and local levels.

• To increase the fiscal space of the three tiers.

Strategies and Working Policies Strategies

- To manage resources to complete the exclusive and concurrent powers of the threetiers harmoniously.
- To make the intergovernmental fiscal transfer transparent, predictable, and fair.
- To develop the capacity regarding public finance management at the federation, province, and local levels.
- To maintain fiscal good governance at the federation, province, and local levels.

Although above policies and laws are being implemented, the following achievements are linked to IGFT in Nepal. Achievements through IGFT is not a new element. It is related with governance system. Until quite recently it has been changeable according to governance system. Devkota (2020) examines current approaches and proposes alternate allocation formulae and methodologies, including recommendations for coordination and cooperation between the government and NNRFC on fiscal transfer issues. According to him, the largest category of grant is fiscal equalization, which constitutionally must be distributed based on the expenditure need and revenue potential of the sub-federal units, as processed by the independent National Natural Resources and Fiscal Commission (NNRFC), the body charged to make the fiscal transfer process balanced and transparent. In the short time since the implementation of federalism started in 2017, Nepal has done well with the fiscal transfers system. Pant (2017) focused on intergovernmental fiscal transfers for Federal Nepal focusingon the following areas with example of Canada Australia, Germany, United States of America, China, Russian Federation, South Africa. India, Indonesia, and Brazil. They are revenue sharing, general purpose transfers, specific purpose transfers, special transfers. He concludes that need to avoid one size fits all in grant design and separate formula allocations to be used for each type of local governments to discourage the inequities among the



governments.

He has suggested that fiscal transfer formula should be simple so as it could be economically feasible and widely acceptable. The population, demographic conditions, area and the topography of the jurisdictions, the nature of the services required should be addressed during grant design. Need to avoid one size fits all in grant design and separate formula allocations to be used for each type of local governments to discourage the inequities among the governments. Devkota further writes that about 33 percent of the federal budget for fiscal 2021-22 was allocated for fiscal transfers

to the sub-national levels. This is about 12 percent of the country's GDP. Fiscal equalisation grants alone account for about 3.4 percent of the GDP, indicating smooth vertical allocation of funds. When adding revenue sharing to the fiscal equalisation grants, the ratio goes up to 6.8 percent. The grants received by the sub-national levels within a short time of Nepal's becoming a federal republic should be taken positively.

This shows that Nepal's fiscal federalism is not weaker than that of most federal countries of the world.

Table 1. Intergovernmental Transfers (budgeted): Vertical Shares (Rs, billion and %)

Types	Prov	Province Local		cal	Sub-federal Total	
	2019-20	2020-21	2019-20	2020-21	2019-20	2020-21
Fiscal equalization grant	55.3	55.19	89.95	90.5	145.25	145.69
Conditional grant	44.55	36.35	124	161	168.55	197.35
Special grant	5	3.14	5	6.83	10	9.97
Matching grant	5	5.19	5	4.78	10	9.97
Revenue sharing	65	61.07	65	61.07	130	122.14
Total	175	161	289	324	464	485
% of federal budget	11.41	10.92	18.86	21.99	30.27	32.91
% of GDP	4.64	3.72	7.67	7.48	12.31	11.20

Source: Devkota (2020)

Until 2018, the modality for the intergovernmental fiscal transfer (IGFT) system had not been further clarified in Nepal. However, the first federal budget 2017-18 allocated the fiscal equalization grant and special grant to the local level. The newly formed Intergovernmental Fiscal Management (IFM) Act 2017 provisioned the revenue sharing modality and natural resources revenue sharing modality among the different tiers of government. In this situation, Chhetri (2018) reviews the IGFT system in Nepal and suggests the appropriate IGFT model and need variables. He further writes the equalization grants should be transferred on formula basis. In the initial phase of the new governance system, fiscal transfer formula should be research-based, very simple, and clear.

The variables used in formula should be relevant, non-disputable, and selected on the basis of national context and availability of the data. Relevant database of the newly established provincial and local governments should be developed accordingly and the fiscal transfer formula should be amended periodically which will serve more the constitutional spirit of Fiscal equalization. Moreover, specific, and clear guidelines should be formulated to implement the matching and special grants as well.

The constitution has given great responsibilities to the province and local government revenue-raising rights to fulfill these responsibilities are nominal. Instead, the constitution provides most revenue-raising rights to the federal government. The constitution provides for intergovernmental fiscal transfers to reduce the gap between functional responsibilities and revenue-raising rights. According to Intergovernmental Fiscal Arrangement Act 2074 (2017) Government of Nepal proposed allocation of revenue distribution over three tiers of government as shown in Table 2.

Table 2: Allocation of revenue among the three-tier of Government of Nepal

s.n.	Types of Revenue	Federal	Province	Local
1	Customs duty	V		
2	Excise- duty	V		
3	Value-added tax	V		
4	Corporate Income tax	V		
5	Individual income tax	V		
6	Remuneration tax	V		
7	Passport fee	V		
8	Visa fee	V		
9	House and land registration fee		V	V
10	Advertisement tax		V	V
11	Gambling/lottery,		V	V



	Casino			
12	Land tax (Land revenue)			V
13	Property tax			1
14	Business tax			1
15	Vehicle tax			1
16	House rent tax			1
17	Service Charge/fee	V	V	1
18	Penalty and fine	V	V	1
19	Tourism fee	V	V	1

Source: Government of Nepal 2017

The Constitution of Nepal has clearly assigned the revenue sharing mechanism between three tiers of government in Nepal. The major sources of revenue custom duty, value-added tax (VAT), excise duty, corporate income tax, and personal income tax which comprise around 80 percent of total tax revenue are assigned to be collected by the central government. The state and local level governments are assigned to collect entertainment tax, advertisement tax, and registration charge of land and house concurrently. Property tax, land revenue, vehicle tax, business tax, and house rent tax is assigned to be collected by the local level. The service charges, punishment and fine, and tourism charge will be collected concurrently by all three levels of governments. The modality mentioned above reflects that around 90 percent of total tax revenue would be under the jurisdiction of the central government. Since custom duties (export and import duties) are collected by the central government by nature, VAT and income taxes will have to be collected concurrently by both the central and the sub-national governments. The other taxes including excise duties will have to be collected by the sub-national governments which will support the expenditure responsibilities of the subnational governments adequately.

Non-tax revenues are the financing sources most consistent with the efficiency goals of a decentralized system. Therefore, user charges, one of the major parts of non-tax revenues should be assigned to the local governments. Receipts from sale of public commodities and services have been more or less the largest source of non-tax revenue in Nepal for last thirty years. This source includes charges for drinking water, education, electricity, postal services, irrigation, and transport.

Further, it consists of receipts from the sale of forest products, food and agricultural products, etc. Supply of public utilities can be a powerful instrument to achieve equity in society by supplying these goods to the poor at cheaper rate. But the service of public utilities in Nepalis biased in favour of non-poor. These services are limited to the urban and better-off population. The price of these services is identical for all (see also Prasad, 2015).

The majority of rural population are deprived from the services of

electricity, drinking water, and transport which has been a major political issue in Nepal. Dividend and principal and interest payments include the receipts obtained from PEs. The government has invested a massive amount in PEs in form of share capital, loan capital, operating/transport subsidy, and capital subsidy. But the share in non-tax revenue from principal and interest payments has been decreasing significantly in recent years because of privatization policy adopted by the government. Therefore, non-tax revenues derived from the activities of the central government like corporate debt servicing will go to the central government whereas non-tax revenues collected from user charges will have to be assigned to the local governments in federal Nepal.

Table 3: Provision of Revenue Distribution between Central, Province and Local

SN	Area of	Distribution %			Remark
	revenue	Federa l	Province s	Local	
1	Mountaineerin g	50	25	25	Equal transfer to provinces and local government
2	Electricity	50	25	25	Equal transfer to provinces and local government
3	Forest	50	25	25	Equal transfer to provinces and local
					government
4	Mines and Minerals	50	25	25	Equal transfer to provinces and local government
5	Water and other Natural Resources	50	25	25	Equal transfer to provinces and local government

Source: Intergovernmental Fiscal Arrangement Act2074 (Nepal Law Commission, 2017)

The Government of Nepal, on the recommendation of the Commission, shall allocate and distribute the royalties of natural resources in the proportionate ratio to the State and Local Level as affected using natural resources (Concerned Local Level, District Coordination Committee).

The Government of Nepal, on the recommendation of the Commission, shall review the allocation of royalties of the natural resources to the Government of Nepal, the State and Local Level as pursuant to this schedule in each five years and shall make necessary change by publishing in the Nepal Gazette.

With starting the implementation of IFTA, fiscal transfer system is being scientific, so that provinces and local governments have got revenue parts from central government. According to





intergovernmental arrangement act and criteria, local and provinces have got revenue, vat, and royalty from central government. IGFT system has been made formula-based and systematic. The financial transfer has been done as per the recommendation of the National Natural Resources and Fiscal Commission and as specified by the Intergovernmental fiscal transfer Act. Guidelines have been formulated and adopted in such a way that reports and feedback on the use of finance are received from the province and local levels.

After the country entered federalism, grants of all four types have been received by provincial and local governments, with the NNRFC managing the fiscal transfers. Both the National Natural Resources and Fiscal Commission Act, 2017, and the Intergovernmental Fiscal Arrangement Act, 2017, have been promulgated to enable legal provisions for the fiscal transfers. These Acts specify the definition and distribution criteria of grants and revenue sharing. In addition to transfers between the federal and sub-federal levels, Nepal's form of federalism includes mandatory fiscal transfers from the provincial to the local level.

Accordingly, the provinces have started distributing grants to the local level. Parallel to the four grant types from the federal level, the local level units also receive such grants from their provincial governments. Both the federal government and provincial governments distribute fiscal equalization transfers to local government based on formulae and allocations approved by NNRFC.

In addition to grants, the provincial and local governments have a legal entitlement to receive 15 percent of fiscal resources from value-added taxes (VAT) and excise duties from domestic production under the heading of 'revenue sharing.' Similarly, the provincial and local governments get 25 percent of royalties from natural resources. The constitution stipulates that fiscal equalization grants should be distributed on basis of expenditure needs and revenue capacity. In the constitution, royalties from natural resources are included in the concurrent list of all three levels of government. As per the Inter-Governmental Fiscal Arrangement Act, 2017, provinces and local levels each receive 25 percent of the royalties from the federal level collected from the use of natural resources such as mountaineering, forestry, electricity generation, mining, and others. Fiscal Transfer Fiscal Equalization Grants, Conditional Grants, Matching Grants, Special Grants are the types of Fiscal Transfer. Provinces and local governments also received unconditional grants based on expenditure needs and revenue capacity.

Based on this experience, fiscal equalization is expected to be the most important type of grant received by provincial and local governments. Despite this, subnational governments have found themselves receiving federal funds more from the conditional grant types than fiscal equalization, contrary to their expectations. Similarly, local governments also anticipated fiscal equalization to have been the largest grant type from their provincial governments, but have been surprised by the balance of funds received.

#### 3. Conclusion

The act provides many functional responsibilities to the local government and provinces. To fulfill these functional responsibilities, speed up service delivery, and build a government accountable to the people, they need sufficient fiscal resources. However, the constitution provides limited revenue-raising powers to the provinces. As per the finance follows the functions principle, initiatives are needed to review the revenue rights of the provinces.

Revenue assignment modality presented in the present constitution has centralized most ofthe revenue generation power at federal government whereas most of the expenditure responsibilities are assigned to the provincial and local level government. As per the constitutional provision, the central government collects around 80 percent of tax revenue and 90 percent of the total revenue. This situation creates the significant vertical fiscal imbalances among the levels of governments. So for the breaking of imbalance Intergovernmental Fiscal Management Act 2017 provisioned the modality of the sharing of VAT and excise duty on domestic production among federal, provincial, and local government and the first budget of 2017/18 after federal set up, two types of fiscal transfers including fiscal equalization and conditional grants are provided to the provincial and local governments. Thus, for the effectiveness of Intergovernmental fiscal transfer in the Federal governance system, fiscal transfer formula should be implemented strongly which that are mentioned Intergovernmental Fiscal Arrangement Act. intergovernmental fiscal arrangement system in Nepal should be changed according to evaluation and result of the latest years on the revenue capacity and expenditure need of the transfer receiving governments.

The NNRFC envisioned to implement fiscal federalism, was established and has been determining the basis and framework for fiscal transfers based on specific processes. But laws enacted to implement fiscal federalism continue to restrict the jurisdiction of the commission. Those laws have become hindrances toward an equitable redistribution of revenue and state resources in a manner envisioned by the Constitution. The dominance of the federal government – with its constitutional legal supremacy and residual rights – is clearly seen in the process of implementing federalism. The effect is seen in the budgeting process and project implementation across three levels of governments. Instead of utilizing the formal mechanism for fiscal transfer to fully transfer rights to local and provincial governments, the federal government has been implementing small and large projects alike through the local level by granting spending authority.

In parallel, smooth relations between provincial and local levels are also absent. Although some attempts have been made to avoid duplication in programming, both levels have been thinking of themselves as autonomous, and of each other as competitors. Intergovernmental structures have been established to manage the relationship between three levels. Structures like the Inter-Province Council and Province Coordination Council have played positive roles in the implementation of federalism. Through the Inter-



Provincial Council, provincial governments have been able to put pressure on the federal government to make the process of implementing federalism more effective.

The Government of Nepal has promulgated two Acts related to IGFT: (i) Intergovernmental Fiscal Management Act (IGFMA) 2017 and National Natural Resource and Fiscal Commission (NNRFC) Act 2017. The 6.1 under the Schedule 3 of IGFMA has the provision of establishing a Federal Divisible Fund (FDF) in order to divide the VAT and excise duty on domestic production among federal, provincial, and local government. Further, the sub 2 has made the provision of dividing the total amount of the FDF comprising 70, 15, and another 15 percent among the federal, provincial, and local government respectively.

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