CHALLENGES OF FEDERALISM IN NEPAL: EXPLORING STRATEGIES FOR EFFECTIVE IMPLEMENTATION

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Abstract.

"Challenges of Federalism in Nepal: Exploring Strategies for Effective Implementation", the research topic has been selected by the researcher in the interest of gaining knowledge and sharing it with other readers in order to searching its impacts by discussing, its issues in implementing and finding logical sources to make it durable in Nepal comparing with international federal democracy. This research aims to explore the challenges of implementing federalism in Nepal, focusing on its impacts, issues, and strategies for sustainable development. The study examines the concept of federalism and its relevance to Nepal, analyzing the federalization process, its historical context, and the prevailing issues in implementation. By reviewing literature, national and international sources, and secondary data, the researcher seeks to understand whether Nepal's federal democracy is functioning effectively or requires further improvement. The research identifies key challenges, including gaps between constitutional provisions and Nepal's social structure, leadership, and political dynamics. It highlights the need for a streamlined two-tier government system, as opposed to the existing three-tier system, to enhance economic efficiency and governance. The study concludes that while federalism is essential for empowering Nepali citizens and improving resource accessibility, overcoming socio-cultural and political conflicts, bridging gaps between constitutional ideals and reality, and strengthening federal units are critical for effective implementation. The research emphasizes the importance of minimizing social, cultural, and ethnic conflicts, promoting adherence to constitutional provisions, and empowering federal institutions to ensure the success of federalism in Nepal.

Keywords: *Federalism, Implementation Challenges, Governance, Political Leadership*

Introduction:

Nepal's transition to federalism began with the end of the Shah Dynasty in 2008, which marked the shift from an authoritarian monarchy to a federal democratic republic. This transition was gradual, evolving from a party-less Panchayat system to multiparty democracy, and eventually to federalism (Sharma, 2021). The political negotiations surrounding the design of Nepal's federal structure have been deeply shaped by the country's ethnic, caste, and regional diversities. The Maoist-led insurgency (1996–2006) played a significant role in mobilizing marginalized communities, especially through identity politics, highlighting historical grievances related to ethnic, cultural, and religious rights (Joshi & Thapa, 2020). These challenges have been central to the political discourse and ongoing debates on how to structure a federal system that is inclusive and addresses Nepal's diverse population.

The implementation of federalism in Nepal faces significant challenges, particularly in reconciling ethnic identity and regional autonomy with the broader goals of federal governance. While federalism aims to decentralize power and provide local governments with autonomy, the politicization of ethnic identity has intensified these demands, leading to social tensions and political fragmentation (Bhattarai & Shrestha, 2023). The struggle to balance ethnic, caste, and regional demands with the principles of federalism has been an ongoing challenge in Nepal's political landscape. These challenges underscore the need for a more nuanced approach to federal governance that takes into account the complexities of Nepal's social fabric while avoiding further division (Sharma, 2021).

For Nepal's federal system to succeed, it is critical to define the rights and responsibilities of local governments clearly. Federalism in Nepal envisions local governments managing administrative tasks, law enforcement, and local development projects independently from the central government, which retains control over policy-making, funding, and state infrastructure (Joshi & Thapa, 2020). However, ethnic identity politics and demands for greater regional autonomy have created tensions that disrupt social harmony. To ensure the successful implementation of federalism, Nepal must manage these political and social conflicts while strengthening the capacity of local governments and promoting national unity. Federalism can only succeed if the state can navigate these complexities and create a system that respects diverse identities while fostering inclusivity and sustainable development (Bhattarai & Shrestha, 2023).

This research on the challenges of implementing federalism in Nepal is highly significant as it addresses the pressing need to understand how federalism can be effectively implemented in a country with such diverse ethnic, social, and regional complexities. The study contributes to the ongoing discourse by highlighting the challenges Nepal faces, such as the politicization of ethnicity, regional autonomy demands, and the gap between constitutional ideals and the reality of governance. By examining these challenges, the research provides actionable insights on how Nepal's federal system can be refined to ensure inclusivity, social harmony, and sustainable development. This research is valuable for policymakers, academics, and civil society, offering guidance on how to strengthen local governance, resolve socio-political conflicts, and foster national unity. Ultimately, the study contributes to shaping a more effective, equitable, and cohesive federal structure, which is essential for Nepal's long-term democratic stability and development.

Statement of Problem:

Federalism in Nepal remains a highly debated issue, with the country struggling to establish a clear and sustainable federal structure amidst its diverse ethnic, cultural, and regional contexts. The two primary models of federalism territorial-based and ethnicity-based represent contrasting approaches to governance. Territorial-based federalism focuses on geographic boundaries and aims for equal rights and democratic accountability, while ethnicity-based federalism seeks to protect and promote the distinct identities and rights of marginalized groups based on ethnicity, language, or culture (Anderson, 2008; Elazar, 1994). This dichotomy has led to significant dissatisfaction, especially in regions like the Terai/Madhesh, and among ethnic minorities such as the Adivasi Janajati and Tharu communities, contributing to political instability and protests (Khadka, 2022). The demarcation of federal states in Nepal, as outlined in the 2015 Constitution, has been a contentious issue, with unresolved boundaries and administrative structures, hindering the effective implementation of federalism (Sharma, 2021).

The challenges of federalism in Nepal are further exacerbated by governance issues, insufficient decentralization, and the slow progress in forming necessary laws and institutions. The federal government's reluctance to empower local units and promote decentralization has limited the ability of provincial and local governments to function effectively within the federal framework (Bhatta, 2023). Additionally, the unclear division of powers between the different levels of government and the slow pace of establishing key constitutional commissions and laws has contributed to the frustration and dissatisfaction among the public and political parties alike (Joshi & Rose, 2020). This research aims to explore the concept and relevance of federalism in Nepal, examine the implementation challenges, and propose strategies for effective federal governance to promote democracy, inclusion, and national unity. By analyzing these challenges, the study will contribute to finding solutions that can help Nepal overcome its federalism-related issues and move towards a more cohesive and democratic future.

Research Objectives

- To examine the primary challenges hindering the effective implementation of federalism in Nepal,
- To explore potential strategies to strengthen local governance and improve coordination among federal, provincial, and local governments.

Research Questions

- What are the main challenges in implementing federalism in Nepal?
- How can local governance be strengthened to ensure effective federalism in Nepal?
- What strategies can improve coordination between the central, provincial, and local governments in the federal system?

Method and Materials:

This chapter outlines the methodological approach adopted for this study, including the research design, data sources, tools for data collection, and analysis methods. The researcher aims to reflect on the emerging insights and challenges in obtaining reliable data, critically analyzing the findings within the global context as well as the Nepali context. The study primarily employs a library research method, combining secondary data sources with analytical techniques to explore the key challenges in implementing federalism in Nepal.

Research Design. The research adopts a descriptive and qualitative approach to fulfill the objectives. Through this method, the researcher analyzes and interprets the content in relation to the implementation of federalism in Nepal, identifying key challenges and proposing strategies for effective governance.

Source of Data. The study relies primarily on secondary data sources, including books, academic articles, research papers, and government publications related to federalism. The researcher also consults online resources, articles, and reports to gather comprehensive data. No primary data has been collected, and the research draws solely from available literature and published works relevant to the subject.

Data Collection Tools. The study utilizes a range of data collection tools, including library research, review of academic books, theses, articles, and reports, as well as government publications and critical analyses of federalism in Nepal. Secondary data obtained from reputable sources is used to explore the challenges in the federal system.

Analysis and Interpretations. The data collected from various books, articles, and reports are critically analyzed and interpreted. This analysis aims to derive meaningful conclusions about the challenges in implementing federalism in Nepal, with a particular focus on local governance, coordination, and the effectiveness of the current federal structure.

Results and Discussions:

Starting the Federal System

State restructuring and federalism are distinct concepts, with the former encompassing a broader scope than federalism alone. While federalism is often associated with reorganizing certain aspects of a state, state restructuring involves a more comprehensive transformation, touching on multiple dimensions of governance. In Nepal, the discourse on state restructuring has gone hand-in-hand with the establishment of a federal system. The Interim Constitution (2007) outlines the provisions related to state restructuring, including the adoption of federalism, through Article 138, which mandates the progressive restructuring of the state (Interim Constitution of Nepal, 2007). This restructuring was envisioned to dismantle the centralized unitary system, ending discrimination based on class, caste, ethnicity, language, gender, religion, and region, and ensuring the protection and promotion of marginalized groups (Article 33[d], Interim Constitution of Nepal, 2007).

Ending Discrimination and Addressing Identity Issues

One of the primary goals of state restructuring is to eliminate discrimination based on caste, ethnicity, language, gender, and region. The unitary structure of Nepal was unable to effectively address these identity-related issues, particularly those associated with caste, ethnicity, and culture (Bhattarai, 2019). Federalism, if appropriately designed, can help address regional

disparities and promote greater representation of marginalized groups. However, federalism alone is not enough to tackle all forms of discrimination, such as class and gender-based inequalities. To address these issues comprehensively, state restructuring must include political, fiscal, and social changes, alongside the federal restructuring process. These measures should aim to achieve equality and inclusivity in all sectors of society (Subedi, 2020).

Political and Fiscal Restructuring

Political restructuring involves dividing the country into functional and manageable units, assigning political power to various levels of government, and creating an electoral system that guarantees representation for diverse social groups (Yadav & Shrestha, 2021). The Nepali political structure must evolve to ensure that all groups, including women, Dalits, ethnic minorities, and other disadvantaged communities, have access to the political process and can effectively participate in governance. Fiscal restructuring is equally crucial, as it involves the equitable distribution of financial resources between central and regional governments, ensuring that the provinces have the fiscal autonomy to carry out their constitutional responsibilities. The ability of federal units to manage their resources and ensure equitable development is key to the success of the federal system (Khanal, 2020). A federal structure without fiscal autonomy may replicate the failures of the previous centralized system, as disparities in resource distribution can hinder equitable growth.

Social Restructuring and Achieving Democracy

Social restructuring is perhaps the most critical aspect of Nepal's state restructuring process. It seeks to ensure that the state structure reflects the nation's diverse population and addresses the historical exclusion of marginalized communities (Bhandari, 2020). By promoting social inclusion, state restructuring can guarantee that the benefits of federalism reach the grassroots level. The goal is to build a more democratic society where people, regardless of their background, can live with dignity and equality. The overarching aim of this restructuring process is the establishment of a fully democratic federal system, which must adhere to the principles of democracy and human rights. The progressive restructuring outlined in the Interim Constitution (2007) aims to create a "democratic federal system" that will ensure the representation and participation of all citizens in the governance of the nation (Interim Constitution of Nepal, 2007).

Challenges of Federalism Implementation in Nepal

The federal restructuring of Nepal has become a highly politicized issue, driven by demands for ethnic and regional autonomy, inclusion, and proportional representation. Activists push for provinces to be named after dominant ethnic groups, with boundaries drawn to favor these groups, and seek preferential rights to resources and political leadership. The demand for federalism gained momentum during the Maoist-led insurgency and was formalized in the 2006 peace deal. However, its implementation presents several challenges. Trust and tolerance among diverse groups are crucial, as is the protection of national sovereignty amidst ethnic-based demands. The demarcation of federal boundaries is complicated by Nepal's varied geography, and resource-sharing between federal states and the central government could create disputes. Additionally, ethnic demands risk overshadowing democratic progress, and the financial burden of maintaining federal governance, including administrative and parliamentary costs, could strain Nepal's limited resources. The lack of coordination between central and provincial governments may also lead to conflicts, making the transition to federalism a complex and contentious process.

Challenges Related to Social Structure. Nepal's social structure is a complex mix of diverse ethnic groups, with the two largest racial categories being Tibeto-Burman and Indo-Aryan. The Tibeto-Burman group predominantly resides in the hills and high mountains, while the Indo-Aryan group, with a large presence in the Terai, comprises both hill and Terai subgroups. The history of the caste system in Nepal, embedded through the Muluki Ain (1854), has shaped the interactions and mobility of various groups, though it led to significant discrimination. Lower castes and non-Hindus were historically treated unjustly, with unequal punishments and social restrictions, fostering efforts to upgrade caste titles to attain higher social status (Levine, 2004). Nepal's ethnic diversity is further complicated by migration patterns, including the settlement of Tibeto-Burman speaking groups like the Tamangs, Gurungs, and Sherpas from Tibet, and the Indo-Aryan language speakers like the Madhesi from India. The political and social dynamics in the Terai region, home to multiple ethnic groups, reflect these complex migration and identity processes (Whelpton, 2005).

Indigenous People and Their Rights. Indigenous Peoples (IPs) in Nepal, comprising nearly 36% of the population, face significant political and economic marginalization despite efforts for greater inclusion. These communities, including groups like the Magars, Tharus, and Tamangs, have historically struggled with social exclusion and limited access to resources. The state's recognition of IPs' rights, guided by the UNDRIP and ILO Convention 169, has led to mobilization efforts aimed at securing better representation and protection (UN, 2007; ILO, 1989). However, certain groups like the Newars, despite their privileged political and economic status, are also categorized as IPs, raising questions about the inclusivity of this categorization. These complexities contribute to ongoing tension between groups claiming indigenous status and those excluded from these privileges, particularly among the Terai communities (NFDIN, 2010).

Ethnic Movements and Citizenship Issues. Ethnic identity and citizenship issues in Nepal have been contentious, especially in the Terai region, where movements like the United Democratic Madhesi Front (UDMF) have been at the forefront, calling for greater autonomy and recognition of Terai people's unique ethnic identity. The UDMF's actions and the political representation of the Terai elite highlight the ongoing divide between the hills and Terai, often intensifying ethnic polarization (Miklian, 2010). Similarly, citizenship laws, particularly the Citizenship Act of 1964, have been a source of controversy, as they were designed to limit the influx of Indian nationals and prevent the Terai people from acquiring citizenship, furthering the exclusion of ethnic minorities in the region (Kansakar, 2007). These discriminatory policies, coupled with social and political exclusion, have led to grievances that persist in Nepal's political landscape.

Law Formation and Federal Institutions. The law formation process in Nepal is complicated by political instability and conflicting party interests at the federal, state, and local levels. The constitution, while providing guidelines for the formation of laws, is often undermined by the centralization of power and the lack of awareness among federal institutions about their constitutional duties. The interference of central government authorities, driven by a desire for control and power consolidation, hinders the proper functioning of federal institutions, further delaying the effective implementation of federal policies (Bhattarai, 2022). These institutional challenges highlight the gap between constitutional provisions and the actual functioning of federal systems, leading to inefficiencies and delays in law enforcement and the realization of rights for marginalized communities.

Strategies for Strengthening the Implementation of Federalism in Nepal

The transition from a centralized unitary system to a federal structure, established by the promulgation of the Constitution of Nepal in 2015, aims to decentralize power and empower local governments. However, challenges such as resource distribution, capacity limitations, and coordination issues between different levels of government have hindered the effective implementation of federalism. To address these challenges, several strategies must be implemented to strengthen local governance and improve coordination.

Strengthening Local Governance. A primary strategy for strengthening federalism is building the capacity of local governments. With 753 local units across Nepal, each with varying levels of experience and resources, capacity-building programs for local leaders, officials, and staff are crucial. The Ministry of Federal Affairs and General Administration (MoFAGA) and various studies highlight the need for training in areas like administration, financial management, and governance within the federal framework. Training programs have shown improvements, such as a 30% increase in the ability to manage local budgets effectively (NDRI, 2021). Fiscal autonomy is also vital for local governance; as local governments often depend on central government grants. Efforts should focus on enhancing local revenue generation through better tax collection and local economic initiatives, as fiscal autonomy can drive regional development and reduce dependency on the central government.

Improving Coordination Between Central and Local Governments. Improved coordination between different levels of government is essential to address issues of overlapping authority and jurisdiction. The Constitution outlines exclusive, concurrent, and shared responsibilities between federal, provincial, and local governments, but conflicts often arise due to unclear power divisions. For example, disputes over education management have underscored the need for clearer delineations of responsibility. Establishing a legal framework that distinctly outlines the powers of each government level would help minimize ambiguity. Strengthening inter-governmental mechanisms like the National Coordination Council can foster better coordination and policy alignment. Regular forums for inter-governmental dialogue can ensure that local governments have a say in national policy-making, allowing for more region-specific solutions.

Addressing Barriers to Effective Implementation. Political interference in local governance is a significant barrier to federalism. While local governments are constitutionally autonomous, central-level political pressures often influence decisions, compromising their independence. Reports from Nepal Transparency International (NTI) reveal that federal grants are sometimes allocated based on political considerations rather than need, leading to unequal development outcomes. Strengthening anti-corruption measures and promoting transparency in fund distribution are essential to mitigate these issues. Additionally, resolving conflicts between different levels of government is crucial. As disputes between federal and local authorities continue to rise, establishing a mediation body or empowering the Supreme Court to adjudicate inter-governmental disputes could offer a fair and efficient resolution mechanism.

In conclusion, to strengthen federalism in Nepal, efforts must focus on capacity-building for local governments, improving fiscal autonomy, ensuring better coordination between federal, provincial, and local governments, and addressing political interference. These strategies are crucial for overcoming barriers and ensuring the successful implementation of federalism, promoting political stability, sustainable development, and social harmony across Nepal's diverse regions.

Conclusion

Nepal's transition to a federal system with the introduction of its new constitution on September 20, 2015, marked a significant change in governance. The country was divided into seven federal states, with the aim of empowering local governments. However, the shift to federalism has faced many challenges. While some people see the new constitution as an important step, others are concerned that it doesn't offer enough independence to the states, lacks competition, and might hinder innovation due to the promotion of reservations. Additionally, there are concerns that the constitution leans too much toward socialism, resembling a political party's agenda rather than a national framework.

Nepal's federal system is divided into three levels of government: the central government, provincial governments, and local governments. Each has distinct responsibilities. This structure is meant to address the diverse needs of Nepal's people, ensuring that governance is more responsive to local situations. However, for federalism to work smoothly, careful planning and management are needed to avoid confusion and conflict, especially given Nepal's ethnic diversity and the need to protect minority rights. To make federalism successful, several strategies must be followed. Local governments should be trained to better manage administration and finances. They should also be given more financial independence to reduce reliance on central government funds. Clearer divisions of power between the levels of government and better communication between them will also help. Finally, a strong conflict resolution system is necessary to resolve any disagreements between the different levels of government. By focusing on these strategies, Nepal can build a stronger and more stable federal system that works for all its citizens.

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