

## **The Dynamics of Federalism: Examining the Interplay between Federal, States and Local Level Governments in Nepal**

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Received: January 3, 2025    Revised: February 17, 2025    Accepted: May 7, 2025

### **Abstract**

This study examines the complex interrelationship between state and local level government structures and federalism. The study aims to clarify the intergovernmental federal frameworks between state and local governments through a comparative analysis of federal systems in the USA, Switzerland and India along with Nepal. The study investigates how federalism affects the effectiveness of state government, service provision, financial independence, and democratic engagement. It also looks at the opportunities and difficulties that result from the interaction of federal, state and local authorities, illuminating topics like intergovernmental relations, resource distribution, and policy implementation. Through the integration of theoretical understanding and qualitative data, this article advances our comprehension of the intricate dynamics present in federal systems and their consequences for state and local governance.

*Keywords:* Autonomy, devolution of power, dynamics of federalism, intergovernmental relation.

### **Background of the Study**

Federalism is the division of a country into several independent regions under one common government. It is the power-sharing or local or regional self-government system. It is a form of governance where a centralized authority and its component political units share power. National groups feel more confident when there is more power shared in between or territorial autonomy. They would feel even more confident if they were to become constitutional partners because they would have more legal protections and independence when it came to issues related to preserving their distinctiveness. Federalism is the dual system of government that is defined, in its broadest sense, as a multifaceted or pluralistic idea pertaining to the devolution of power. Federalism is said to be beneficial in heterogeneous societies because it eliminates the need for hegemony and fosters a sense of cohesion and unity. According to the political theory of federalism, a nation should be divided into multiple autonomous regions, each with a different level of autonomy and authority. This system of governance's authority distribution makes it easier for the federal government and local or regional administrations to share responsibilities and make decisions. Over the past few decades, there has been a shift toward federalism in many countries throughout the world. The idea that states have total and exclusive authority over all the people and property within their borders is known as state sovereignty which is essential element of state.

Federalism and state restructuring were elevated from being merely political issues to constitutional provisions by political parties. As a result, a three-tier federal structure was included in the Constitution of 2015 when it was promulgated. Relationships are formed through official and informal channels between governments. Informal relations are created by

gatherings, assemblies, and other forms of contact; formal relations are defined and governed by the Constitution and existing laws. Additionally, there are two types, cooperative and conflicting of relationships between governments in a federal structure. Theories and philosophies that shed light on the intricacies of governance in federal systems are utilized in the study of federalism and how it interacts with state and local governments. Through engaging with the philosophies and theories of intergovernmental relations, decentralization, liberal theory, and the theory of democracy can be used to comprehend how local level governments interact with the dynamics of federalism examined the experiences of four nations including Nepal in order to pinpoint the best practices in federal arrangements and how they affect the governance system taking into account elements like administrative structures, intergovernmental relations, financial and resource arrangements, and constitutional frameworks.

### **Statement of Problem**

All levels of government in a federal system are able to raise money under specific headings and sectors. The resources required for each level of government to carry out its expenditure obligations are provided by the revenue mobilization authorities of each government, intergovernmental fiscal agreements, and public expenditure provisions. In a federal system, fiscal federalism is the overarching framework that addresses these problems. The three levels of government in Nepal are not in balance when it comes to the authorities in charge of service delivery, policy implementation, and resource and revenue mobilization. This study shed lights on the following issues.

### **Research Questions**

1. What effects do different federal structures have on the authority and autonomy of state and local governments, and how does this affect the efficacy and efficiency of governance in other countries?
2. What are the main elements that influence intergovernmental relations in federal systems, and what effects do these dynamics have on service delivery, policy implementation, and resource allocation in Nepal?

### **Objectives**

The purpose of this study is to better understand how state governments and federal structures interact to affect service delivery, autonomy, and governance dynamics. This will help develop strategies for improving decentralized governance in federal systems.

The specific objectives of this study are:

1. To investigate different federal structures in three major nations and find out state and local governments' autonomy and authority.
2. To explore the effectiveness of federalism in terms of power and resource sharing among three levels in the USA, Switzerland and India.
3. To examine the dynamics of intergovernmental relations within federal systems affect service delivery, policy implementation, and resource allocation in Nepal.

## Literature Review

Federalism is a form of government in which the central and regional governments are each granted a certain amount of constitutional autonomy within their respective domains. While the regional governments are in charge of things like healthcare, education, and law enforcement, the central government is in charge of things like foreign policy, national defense, and interstate commerce (Elazar, 2012). Federalism is more than simply a system of government. It is also a cooperative, compromise-based approach, a continuous negotiation process, and a form of conflict resolution art. Nothing is ever established once and for all because solutions to problems must be negotiated among constitutional partners rather than imposed by a single central authority. The flexibility of federalism is one of its primary advantages (Auclair, 2005).

The study report titled "The Interrelationship between Three Levels of Governments in Nepal's Federal Structure" produced by Democratic Resource Center Nepal is regarded as a significant piece of writing. According to it, in order to maintain an effective and fruitful intergovernmental relationship, the federal system needs a variety of frameworks and procedures. Meetings, assemblies, and other forms of contact give rise to informal relationships, while the Constitution and current laws define and govern formal relations. Additionally, in a federal structure, there are either cooperative or conflicting relationships between the governments (DRCN, 2020. p. 23).

One can trace the history of intergovernmental relation back to the United States of America in the late 1930s. With the establishment of the Advisory Commission on Internal Governmental Relations in 1959 and the extension of Canada's cooperative federalism experience, the idea of intergovernmental relation gained international recognition in the 1950s. Since coordination between various levels of government is essential, the principle of intergovernmental relation primarily focuses on the interactions among various levels and types of governments (Subedi, 2023. p. 50). The people's discontent with the aristocratic feudal unitary system of governance, which was based on a centralised system of governance for a century, led to the creation of federalism. This political structure did a terrible job of providing services and neglected to take into account the diversity of the nation. It is crucial for regional and local power sharing. Political parties cannot agree upon anything, and they hold each other accountable for the mess (Adhikari, 2020, p. 16–19).

Federalism is the term used to describe the power relations in the United States of America between the federal government and the various state governments, according to Tekumulla and Patel's very brief review of the "Relationship between States and the Federal Government" based on the country's constitution. Each level of government in this system has the authority to enact and enforce laws within its own borders, and both the federal and state governments have separate areas of jurisdiction and authority. The Constitution's enshrined division of powers permits a balance of power between the federal government and the states, fostering both regional diversity and individual liberty (Tekumulla and Patel. 2023).

The implementation of federal policies is the area in which the communes and cantons have the greatest influence. The rationale is that the communes and cantons carry out the majority of federal programs. Despite some centralization over the past few decades, Switzerland continues to be among the nations with the least centralization where two thirds of the public financial and

human resources are still under the jurisdiction of the cantons and communes. They are the primary accountable participants in a variety of policy initiatives and are key players in carrying out the majority of federal initiatives. There are very few federal services that deal directly with the public, and there isn't a parallel federal administration with its own regional services, agencies, or even courts. (Linder, 2012. P. 10).

The Indian state governments have taken different stances on different issues regarding Article 263 of the Indian constitution, which provides for the establishment of an Inter-State Council (ISC) if the President determines that such a body would promote harmonious intergovernmental relations and open communication. The intricacy of the Indian intergovernmental system over time, can be argued that greater simplicity will help manage political challenges arising from increased regional inequality within the federation and help achieve objectives of horizontal equity through the reduction of intergovernmental transfer channels. Similarly, at the national and state levels, the judiciary constitutes a distinct branch of government, though the legislative branch influences appointments and at the local level, IAS members are vested with some judicial authority (Singh, 2004. p. 6). The Union as well as the States should more effectively utilize the forum of Inter-State Council in resolving problems and coordinating policy and action. This will adhere to the cooperative federalism spirit, which calls for accurate comprehension, mutual trust, and prompt resolution of issues of shared interest (Saxena, p. 12.).

## **Methodology**

When investigating the connection between local government and federalism, the study used thorough methodology that combines qualitative and quantitative methods. This is a suggested approach that was used to conduct the research study.

- a) **Theories and Philosophy:** Through the application of these theoretical frameworks, the study can be examined by the interactions between federal systems and local government structures, revealing the fundamental dynamics, obstacles, and prospects for efficient governance in intricate, multi-tiered political structures. For this democratic theory, liberal theory, decentralization theory and intergovernmental relations theory are taken into account which seems very useful for this research.
- b) **Literature Review:** To gain an understanding of the current theoretical frameworks, discussions on decentralization, and federalism, starting by conducting an extensive literature review that gives the research a theoretical basis and assists in identifying any gaps or areas that require more investigation. The study is based on three major nations with decentralization and federal structures and did a thorough analysis of intergovernmental relation under the constitutional framework except Nepal.
- c) **Data Collection:** Quantitative Data Collection tool is used to draw information from reliable sources, such as scholarly studies, on important indicators like f
- d) **Fiscal decentralization, service delivery and local government autonomy.** The information about the federalism on state and local governance based on secondary data which were obtained from the constitution, research journal articles, books, government records, newspapers and other relevant documents.

## **Data Presentation and Analysis**

Democratic theory investigates how federal systems can support or contradict democratic values like accountability, representation, and participation. It also looks at the relationship between federalism and democracy. In the context of federal settings, it takes into account matters like minority rights, electoral systems, and deliberative procedures. Within a federal framework, the theory of liberalism emphasizes the significance of defending individual liberties, rights, and diversity. It promotes decentralized governance systems that increase local autonomy and citizen participation, improving the responsiveness and accountability of democracy. Similarly, the division of authority and power among the various tiers of government is the main emphasis of decentralization theory. It looks at the advantages of giving local governments in federal systems, administrative and decision-making authority, highlighting ideas like local autonomy and subsidiarity. In federal systems, intergovernmental relations theory studies the dynamics and interactions between various levels of government. Though the process of enacting federalism amply demonstrates the power of the federal government, with its residual rights and constitutional legal supremacy it takes into account elements that influence the collaboration or disagreement between federal and local authorities during the formulation and execution of policies, including power imbalances, bargaining procedures, and institutional setups.

## **Intergovernmental Relation in the United States of America**

The authority reserved to the various States within the United States of America shall encompass all matters that ordinarily pertain to the lives, liberty, and property of the populace as well as the internal organization, enhancement, and prosperity of the State. The 14th Amendment ensures that all citizens have "equal protection of the laws" and bestows citizenship on "all persons born or naturalized in the United States," including former slaves. The United States Constitution pertaining to relations between the federal government and the states in Article IV. The authorities that are shared by the federal and state governments in the United States are known as concurrent powers. These may include the authority to impose taxes, construct roads, and establish subordinate courts. The Constitution is the ultimate law of the land, defining the powers and duties of the government and outlining how it should be set up for the better functioning of the state.

Exclusive powers are those that are only available to the federal government or state governments; no other level of government is permitted to use them. Federal, state, and local public servants all have strong ties to their constituents and work to serve them through the intergovernmental system. Numerous forms of intergovernmental cooperation exist within the federal system, including shared revenues, low-interest loans, federal grants-in-aid, and tax expenditures for state and local governments in the US. The Centre and States both provide comparable own-source fiscal benefits to their local governments and funnel large amounts of federal aid through to them. States give local governments a comparable level of own-source fiscal benefits in addition to receiving sizeable amounts of federal aid.

## **Intergovernmental Relation in Switzerland**

Since the governments of the former Swiss Confederation were heavily involved in the creation of the Swiss federal state in 1846–1848, the Swiss federal state even owes its existence to intergovernmental relations. The communes and cantons, or constituent states, share authority

with the Confederation. There is an executive and a legislature for each of the three political levels. The close cooperation that exists between the sub-national entities the cantons and between the cantons and the center the Confederation is one of the distinctive features of Swiss federalism, and it is closely linked to or even the source of the intergovernmental institutions and relations. In Switzerland, the cantons maintained complete political autonomy and statehood, and with their own constitutions, taxation rights, and responsibilities. However, the central government was granted certain powers, including the military, finances, and foreign relations. Up until this point, the cantons' express approval is required before the central government can take on any new duties or powers. However, the development of "cooperative federalism" was aided by the complexity of contemporary infrastructure, economic intervention, and social policies. It entails the cooperation of various governmental levels in the same policy programs and co-funding arrangements involving two or all three tiers of government.

Switzerland's cantons are involved in all aspects of federal life, including enacting new laws, changing the constitution, and carrying out federal policies. With two legislative chambers and full bicameralism, the cantons are able to influence federal legislation. In the second house of the Swiss parliament, the Council of the States, the cantons are represented. Foreign policy, social security and national defense, infrastructure and services such as telecommunications, legislation pertaining to commerce, and civil and criminal laws are all primarily under the purview of the central government. The canton's primary areas of expertise are that the communes are in charge of all local infrastructure, social services, land use planning, and natural resource management, while the schools and public education are under their purview. Competencies at the three levels were initially quite distinct from one another. Financial compensation is provided by Swiss federalism. It is used to make up for disparities in wealth and spending between wealthy and impoverished communes or cantons, or it is used to compensate larger cantons for services that smaller cantons cannot afford to provide for themselves.

### **Intergovernmental Relation in India**

Intergovernmental relations have been carried out in India through a variety of bodies and procedures that range in formality or informality. Over time, a number of these bodies have come into existence on a functional basis. These bodies have been established through cabinet resolutions in lieu of formal presidential orders, parliamentary acts, and state government initiatives. So, in addition to the first degree of the two constitutional formalities under which the Inter State Council was established under Article 263. State governments in India have significant autonomy under the federal system, and there is a distinct division of responsibilities between the federal and state governments. All legislative, executive, and financial authority in India is split between the federal government and the states under the constitution. But since the Constitution created a single judicial system to enforce both federal and state laws, the court lacks separation of powers. According to Part XIV of the Constitution, every governmental tier needs its own administrative structure, and every bureaucracy within a federation will be federal in nature.

Nonetheless, there is a significant vertical imbalance in the fiscal relationship. In India, the central government receives more than 60% of total government revenue and spends roughly 45% of it and to close this fiscal gap, the central government gives the state governments fiscal transfers. By making up the difference between subnational governments' own revenues and

incurred expenses, fiscal transfers from the central government to subnational governments help to alleviate the vertical imbalance. Thus, to carry out state-level policies, state governments must, in particular, have the authority to nominate and fire bureaucrats. This is undoubtedly the case in India, where each state has its own autonomous bureaucracy in addition to the national bureaucracy. The Indian Administrative Service (IAS), whose members are selected through a centralized process, trained collectively, and then assigned to specific states, is the mainstay of the bureaucracy.

### **Intergovernmental Relation in Nepal**

The federal system is comprised of both intergovernmental relations and federalism. The division of state power and authority among the federal, provincial, and local levels of government is the fundamental tenet of federalism. The political, administrative, judicial, economic, and other functional responsibilities of the nation are divided among the several tiers of government within the framework system of governance. The diversity of units within a federation is the foundation of federalism.

The province governments share the power to maintain sovereignty at the province level only, make laws for the province, collect revenue and set monetary policy for the provinces, maintain provincial security, mobilize provincial police and look after provincial issues, and look after internal affairs whereas the federal government of Nepal exercises central power to maintain sovereignty throughout the nation, controls the national economy, issues currencies and formulates national monetary policy, mobilizes the army, declares emergency and looks after important national issues, looks after foreign affairs, signs treaties and contracts, appoints and receives ambassadors, establishes diplomatic relations and embassies, makes large national development projects.

The Nepalese Constitution established the country's devolution of power into seven provinces and seven hundred and fifty-three local bodies. The local bodies are further subdivided into 276 municipalities, 460 rural municipalities, 6 metropolises, and 11 sub-metropolises. There are distinct powers between the federal, provincial, and local levels. Seven provinces are listed in Schedule 4 of the Nepalese constitution. The federal government is granted exclusive authority over 35 matters under Schedule 5, Annex 1. Schedule 6, Annex 2 enumerates the 21 topics in which the province is competent. In 25 areas, Schedule 7, Annex 3 addresses concurrent authority between the federal and provincial governments. Concurrent power sharing between local and provincial government with regard to 15 matters is provided for in Schedule 9, Annex 5. Schedule 8 grants local government exclusive authority over 22 areas. The relationship between the federal, provincial, and local governments is likewise outlined in Part 20, Article 231-237 of the constitution, which covers both legislative and executive branches. Article 232 of the Nepalese Constitution describes the relationship between the federal, provincial, and local governments, while Article 231 deals with territory and law.

One of the key elements of the new federal setup was the restructuring of the previously centralized bureaucratic structure in accordance with federalism. Most senior officials did not choose to work at the local or provincial levels. Senior officials found those positions unappealing, which led to a shortage of workers at the provincial and local levels. It became merely an exercise in the "management" of current employees, rather than a restructuring of the bureaucracy as envisioned under the federal structure. Positive interpretations can be made of the

federal government's attempt to manage civil servants at the provincial level through integration or deployment until public service commissions are formed by the provinces in compliance with the Constitution and the local laws. But when it comes to the standards and integration procedures, there is an obvious lack of planning and clarity.

The resources required for each level of government to carry out its expenditure obligations are provided by the revenue mobilization authorities of each government, intergovernmental fiscal agreements, and public expenditure provisions. In a federal system, fiscal federalism is the overarching framework that addresses these problems. There is a disparity in the ability of local governments nationwide to mobilize revenue and their degree of development. In a similar vein, there is a fiscal imbalance among the provinces. The number of fiscal transfers to local governments has increased significantly since federalism was implemented, despite the fact that provincial and local governments have little ability to raise taxes. Prior to federalism, local institutions received less than 10% of the nation's total revenue; today, the combined share of local and provincial governments is close to 40%. In a similar vein, local and provincial governments now account for a larger portion of all federal spending. In certain federal countries, the share of total income allotted to each branch of government is fixed; however, this is not the case in Nepal.

Following political parties' participation in elections and formation of governments at all three levels in 2017, the implementation of federalism gained some traction. The country has embraced federal theory as stipulated in the Constitution, but it hasn't yet reorganized its internal structures to accommodate the new federal structure in many areas, most notably finance and resource distribution. It appears that there is disagreement about whether they ought to move into a new building or keep the existing one. The implementation of federalism was impacted by the delay in establishing an institutional framework for state and local decision-making in the areas of finance and resource division and allocation. As the country is still in the mid stages of implementing federalism, Nepal has seen some new and real challenges in the process of establishing intergovernmental relations and federalism. According to some academics, this stage of intergovernmental relations lacks harmony. Even after eight years of implementing federalism, Nepal's low intergovernmental relation is attributed to unclear policies, some politicians' resistance to the system, and subpar performance by the province governments. According to the scholars, the country faces some of these intergovernmental challenges.

### **Challenges**

- When big decisions are made at the provincial level, the party whip or central leadership have an impact on provincial politics, sometimes going against the constitution. While new laws have been passed by the federal, provincial, and local governments within their respective purviews, many of these governments have been unable to enact laws on certain matters because there are no pertinent federal laws.
- The three tiers of government's budgeting and project implementation procedures are affected rather than giving local and provincial governments' complete control over their rights through the official fiscal transfer mechanism.
- The Constitution gives local governments the power to issue certificates of land ownership. Local elected representatives, however, assert that local governments are



powerless to take any action because the current land-related laws have not been changed.

- Federalism's implementation was hampered by the state and local governments' failure to establish an institutional framework for decision-making regarding the division and allocation of funds and resources.
- The procedures and standards for integrating laws for civil servants at the provincial and local levels are unclear and not well-prepared which hampers the recruitment policy of employees in provincial and local levels.
- In Nepal's federal structure, the three levels of government have unequal authority over revenue mobilization and expenditure.

### **Prospects**

- It is protected from the negative effects of excessive federal bureaucracy because the provinces and local authorities have the power to levy taxes, local and provincial governments are also in charge of providing funding for their own programs. This makes decentralized production of public goods and services extremely productive.
- Despite having little power to raise money, provincial and local governments now receive a notably larger portion of the fiscal transfers that come to them as a result of federalism.
- The federal government's attempt to manage civil servants at the provincial level through integration or deployment can be interpreted positively as long as the provinces continue to form public service commissions in accordance with the Constitution and the local laws.
- Local institutions received less than 10% of the nation's total revenue prior to federalism; today, the combined share of the province and local governments is close to 40%.
- The intergovernmental relationship encourages citizens and elected officials at all levels of government to work together to prevent conflict, support good governance, and expedite development.

### **Result and Discussion**

Interacting with the democratic theory, liberal theory, decentralization theory and intergovernmental relations theory and philosophies, the academics and decision-makers can acquire a deeper understanding of the normative implications and theoretical foundations of federalism, which will help them in discussions concerning the creation, modification, and application of federal systems globally. Decentralized responsibilities and competences go hand in hand. For example, while local and provincial governments are responsible for funding their own initiatives, they also have the authority to collect taxes. Decentralized manufacturing of public goods and services is therefore very productive. It avoids the dangers associated with an excessive amount of federal bureaucracy. Nepal's system of intergovernmental relations differs from that of the United States, Switzerland, and India.

The federal, provincial, and local governments' relationships must be founded on the concepts of cooperation, coexistence, and coordination, according to Article 232 of the Nepalese Constitution. Thus, for federalism to be successfully adopted, there must be effective and efficient relationships between the three levels of government. Provincial and local government representatives have repeatedly charged the federal government with attempting to curtail the rights granted to them through a variety of means. The Constitution guaranteed provinces the right to demand more, but federal laws were not passed. The preliminary laws mostly addressed how fiscal management and federalism worked. The federal government did not want to lose its authority, but the provinces continued to demand powers from it. The federal structure remains dominated by the centralized system's methods and working style as long as political leadership at the federal level is unable to provide federalism a clear direction.

### **Conclusion**

The study indicates that the three levels of government in Nepal are unable to work together through intergovernmental structures. As a result, federalism is being implemented based only on the assessment and choices made by the federal government. The centralized system's methods and working style continues to rule the federal structure as long as the political leadership at the federal level is unable to provide federalism a clear direction which is different from the USA, Switzerland and India. Although bureaucracy serves as a tool to carry out plans and policies, officials oppose federalism because they believe it will limit their rights and authority and have their main concerns in power and resources. In order for the federal, provincial, and local governments to carry out their mandates, new laws must be passed; however, because of the difficulties associated with sharing jurisdictions, new laws are not being passed at the rate that would be ideal. Within their exclusive jurisdictions, the federal, provincial, and local governments have been passing new laws; however, in many cases, these authorities have been unable to do so because there are pertinent federal laws missing.

The Constitution's ambiguous jurisdictional provisions and the federal government's failure to pass the federal laws required to support provincial governments' operations and local governments make it challenging for them to identify their particular duties. A "centralized federalism," or a "federalism" that only exists in name but operates as a "centralized state," is starting to take shape in Nepal. Provincial government representatives have repeatedly charged the federal government with attempting to curtail the rights granted to the province and local levels through a variety of strategies. The federal government must create suitable tactics to strengthen state and local government autonomy, foster effective decentralized governance in federal systems, and improve intergovernmental relations.

### **Contribution of the study**

This research can contribute to academic scholarship to the policy makers in the area of comparative politics and governance and inform policy debates by using this thorough methodology to shed light on the complex relationship between state, local level government and federalism in Nepal to strengthen its intergovernmental relationship.

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