



Success or failure of federalism in Nepal

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DOI: <https://doi.org/10.5281/zenodo.12619742>

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Abstract

The present paper examines with the political status of Nepal in the present time, implication of federalism, economic burden on the nation, and different possibilities in future. Success or failure of federalism depends on the performance of the politicians and their parties on behalf of the nation. Most of the politicians are not responsible towards the good governance and general public are frustrated from the policy and mischiefs of the political parties. Nepal is a small country but supporters of the federalism have divided it into 1 central government, 7 provinces and 753 local governments. The nation like Nepal that depends on the foreign aids certainly has a lot of economic burden and naturally that will lead to the failure of federalism.

Keywords: Federalism, provincial states, local governments, unitary government, federal government

Introduction

Nepal stands at a critical juncture in its political landscape, embarking on a journey marred by both aspirations and challenges following the implementation of federalism. In the wake of restructuring its governance framework, the nation finds itself at the crossroads of opportunity and complexity. The essence of this paper lies in dissecting the intricate web of political dynamics, economic implications, and the overarching impact on the nation stemming from the advent of federalism.

This exploration delves into the current political climate of Nepal, meticulously assessing the ramifications of the federal structure, particularly in the context of economic burden and its consequent strains on the nation's development. The success or failure of federalism isn't merely an abstract debate but a tangible outcome intricately interwoven with the actions and accountability of the political entities driving the nation's destiny.

At the heart of this discourse lies a crucial observation: the performance and commitment of political leaders and parties in steering the nation's affairs. Sadly, this responsibility often falters amidst a landscape marked by governance challenges and public disillusionment with the policies and maneuvers of the political establishment.

Nepal, despite its modest dimensions, underwent a radical

transformation into a conglomerate of 1 central government, 7 provinces, and 753 local governments—a testament to the aspirations for decentralization and democratic empowerment. However, within this ambitious restructuring lies a conundrum: a nation reliant on foreign aid, burdened by economic strains, potentially paving the path toward the possible faltering of federalism.

As we navigate through this analysis, the intrinsic connection between political responsibility, economic sustenance, and the nation's future becomes apparent. Join us in an exploration that seeks to unravel the complexities and anticipate the possibilities that lie ahead for Nepal—where the success or failure of federalism is inextricably tied to the actions and intentions of its political stewards.

Federalism

Federalism encompasses both institutional structures that divide public authority among constitutionally defined levels of government and a set of foundational ideas that support such structures. As a concept, federalism addresses themes like shared and separate sovereignty, the complexities of multiple loyalties and identities, and governance through diverse institutions. Effective federal systems rely on various institutional frameworks. In these systems, including modern constitutional governments, the

fundamental organizational principle involves the distribution of public power among three branches of government: the legislature, the executive, and the judiciary. Each branch serves distinct yet broadly defined purposes, shaping its structure, authority, and operational methods accordingly. While specific institutional details and interrelationships differ significantly across governance systems, the overarching objectives remain largely consistent: to establish democratic governance that operates effectively under the rule of law.

The first selected contribution to the intellectual debate on modern federalism was the joint effort of Alexander Hamilton, John Jay, and James Madison (under the pseudonym Publius) to a true philosophical treaty on the blessings of the federal government. The premature talent of the minions explaining the change from confederation to federal was both effective and ironic, but the federal government's explanation in the federal government from 1787 to 1988 was impressive with its logic, beliefs, and clarity. As Clinton Rossiter observed the development in the following way:

The federalist converted federalism from an expedient into an article of faith, from an occasional accident of history into an enduring expression of the principles of constitutionalism. (Tierney, 2022) [5].

E. A. Freeman's own political beliefs are those of the British "liberal nationalists" of the mid-19th century, and the modern process of state construction and integration is "to combine traditional peculiarities with the state as much as possible. National integration should incorporate the federal idea in order to reconcile 'as much as possible of long-established particularity with nation-statehood'" (Freeman, 1972) [2]. Therefore, his notion of federalism was that it was essentially a compromise. It was primarily an attempt to mediate between what he called the "two extremes". Using, as he put it, a 'cross-division to the common classification into monarchies, aristocracies and democracies', Freeman arrived at the following destination:

A federal government typically arises when the question is posed whether several smaller states should maintain full independence or unite into a larger, singular state. Federalism addresses this dilemma by balancing a degree of unity with a measure of autonomy. It serves as a middle ground between the advocacy for large, centralized states and the preference for small, independent states. In a federal system, various forms of government can coexist, including democratic, aristocratic, or even monarchic structures. This flexibility allows different levels of government within the federation-whether they be large states, small states, or the federal system itself-to adopt governance models that best suit their needs and preferences. Thus, federalism accommodates a spectrum of political arrangements while maintaining the cohesive framework of a united nation or entity. (Freeman, 1972) [2]. According to Freeman, the Commonwealth was a compromise mechanism between the two opposing political forces under one of these three government classes. It was an intermediate state that combined the advantages of a large country (peace, order, general well-being) with the advantages of a small country (full development and autonomy of individual citizens).

Freeman concluded that a federal union was 'the most finished and the most artificial production of political

ingenuity':

A Federal Union will form one state in relation to other powers, but many states as regards its internal administration. This complete division of sovereignty we look upon as essential to the absolute perfection of the Federal ideal. (Freeman, 1972) [2].

In essence, the federation for Freeman had three key traits: it became artificial, it became in the long run primarily based totally on human reason, and it became fully circumstantial. Federalism is a political machine wherein authority is split among a valuable authorities and a group of smaller, greater nearby administrations. The intention of federalism is to deliver authorities in the direction of the humans.

Federalism is a territorial energy distribution based entirely on the sharing of sovereignty between important (usually national) our bodies and peripheral ones. The following are some of the more prevalent, but not uncommon, structural characteristics of federations as a type of federal political structure:

- A formal constitutional distribution of legislative and executive authority and allocation of revenue resources between the two orders of government, ensuring some areas of genuine autonomy for each other;
- Provisions for the specified representation of diverse regional perspectives within federal policy-making institutions, which are normally supplied by the federal second chamber's distinctive form;
- A supreme written constitution that cannot be amended unilaterally and that requires the assent of a sufficient number of the constituent entities to be amended; The phrase "federation" is a legal concept that is the topic of constitutional law and theory. However, when looking for examples of federal government, it is noteworthy that looking at constitutions alone is insufficient; the practice of governance is just as important. Although a country may have a federal constitution, it may implement it in such a way that its government is not federal A referee (in the form of courts, referendum provisions, or a higher house with particular powers);
- Institutions and processes to enhance intergovernmental collaboration in areas where governmental responsibilities are shared or inextricably overlap.

In today's society, federalism is becoming increasingly significant. Approximately 28 of the 192 countries in the United Nations are federal. Federalism has been adopted to unite previously independent parts into a new country, or to reorder a previously unitary country, or even as a result of both processes combined. The United States Constitution on 17 September 1787 is the foundation of modern federation. Switzerland, Australia, and Canada make an appearance as well.

Federalism is regarded as one of the most democratic political systems. The decision to go with federalism was made in response to democratic political demand for devolution due to the country's diverse languages, faiths, and ethnicities, as well as possible significant economic disparities between areas. There is also a theoretical debate over the distinction between "federalism" and "decentralization."

According to Maurice Duverger, there is no difference in quality, only in degree: decentralization is decreased

federalism, while federalism is decentralization with a strong emphasis (Duverger, 1954) [1]. Federations come in a variety of shapes and sizes. Every federal system is in a state of flux. Once accomplished, the equilibrium between the center and the units does not remain steady. It must adapt to changing situations on a regular basis. Federalism, the division of governing authority between two tiers of government in the constitution (country and states), is the product of political compromise. Currently, another level of government has been added, and all federal systems have three levels of government: federal, state, and local. And it is anticipated that federalism will defend liberty, limit government power, and lay the groundwork for a strong government.

Principles of Federalism

At the same time, there are three common characteristics of the most important federations in financial decision making. The first is the existence of a strong federal government with real financial power and financial and perhaps regulatory or legal influence over the state. This means that it is much easier to achieve political harmony in terms of spending, taxes and regulatory policies. In addition, the federal government can take steps to mitigate any adverse effects that may result from government policy. In fact, it can be considered that federal and state tax arrangements in the federations are primarily designed to ensure that states achieve their national goals while still benefiting from decentralized decision-making. The second distinguishing feature of almost all federations is the existence of a system for redistributing or leveling state relocations. This is especially relevant given that the state government is usually responsible for providing some major public services such as education, health and social services. In fact, most of their budget is spent in these areas. Redistribution transfers at the federal level offset some of the state government's ability to provide public services at similar rates and levels, eliminating the causes of inefficiencies and inequality resulting from decentralized tax liability. In addition, the existence of an effective leveling system diminishes the state's tendency to engage in distorting tax competition. Third, federal citizens enjoy their citizenship and all the economic and social rights that come with it. Therefore, in the federations, it is sometimes expected that the constitution explicitly stipulates the equal treatment of citizens in all states; it may be explicitly stated in the Constitution.

Significant differences in the levels of public services and social protection between countries are generally unacceptable. In addition, the federal government often takes steps to ensure the level of social protection provided by the state and, again, the primary social protection measure is the responsibility of the state government. Like offsets, federal funding reduces the extent to which unfavorable competition between states occurs. Economic unions must rely on the explicit use of international agreements or codified central regulations. The absence of a dominant central government not only makes negotiations and enforcement more difficult but also, by its very nature, it cannot address inequality between jurisdictions.

1. Case of decentralization: The classic view of decentralization is embodied in Musgrave (1959) and

Oats (1972) [4], which include key features such as attribution of function corresponds to Musgrave's well-known trichotomy of efficiency, redistribution, and stabilization areas of government policy.

- 2. Constitutional context:** The Constitution embodies the culture, history, political and civil system of a country and is therefore very specific to that country. Nevertheless, the details vary from country to country, but there are some general elements that can be considered representative.
- 3. Characteristics of federations:** The federal economy is, so to speak, an unobstructed economic union. All products (both final and intermediate goods and services) and factors of production (labor, capital, entrepreneurs and businesses) are free to flow across state borders without border control. Common citizenship applies to all individuals, regardless of country of residence, and gives them specific common rights and qualifications. These include travel and employment rights, as well as expectations for reasonably comparable levels of public services and tax levels, regardless of where they live or work.

Federalism and Other Forms of Government

Government systems can be classified into unitary and federal based on the relationship between the central government and its constituent states or units. In a unitary government, all governmental powers are centralized in the hands of the central government. Conversely, in a federal government, powers of governance are divided and shared between the central authority and the individual states or provinces.

Unitary government

Unitary government is a form of political system where a central authority holds significant power, overseeing the entire administration of the state. In this system, all governmental powers and administrative responsibilities are concentrated at the central level. Today, a majority of countries around the world operate under a unitary system of government, distinct from federal models.

Unlike federalism, where power is shared between central and subnational governments with defined powers, in a unitary government, the central government retains the authority to expand or diminish the powers of local units as it sees fit, including their creation or abolition. Examples of countries with unitary systems include the United Kingdom, Afghanistan, Italy, China, Saudi Arabia, and Spain.

The unitary system emphasizes consistency, unity, and national identity, prioritizing centralized control and authority. Decision-making authority primarily resides with the central government, which may delegate certain powers to lower levels when necessary. However, this system typically limits avenues for grassroots change or innovation, as public participation and local autonomy are often restricted.

There are several advantages to unitary government. It ensures uniformity in laws and regulations across the nation, leading to administrative efficiency. It is also generally less costly to maintain than federal systems, as fewer powerful entities exist within the government structure. In times of crisis or emergency, unitary governments can make swift

decisions compared to federal systems, which may require consensus-building among multiple levels of government. However, unitary systems also have notable drawbacks. They can suppress freedoms of speech and expression, as power is concentrated and dissenting voices may be marginalized. Critics argue that unitary governments can resemble authoritarian regimes due to their centralized nature and limited local autonomy.

In summary, the distinctive feature of a unitary government lies in its centralization of power and authority, aiming for national cohesion and administrative efficiency. While it offers benefits such as consistency and swift decision-making, it also raises concerns regarding individual freedoms and democratic participation at the local level.

- 1. Concentration of Powers:** A unitary government is one in which all the powers of administration are vested in a single centre. The center is omnipotent. A unitary state can be divided into smaller units for administrative reasons, but the units do not have their own. In other words, the Constitution does not empower the entity. It is the central government that delegates specific authority to the unit in its own initiative. Therefore, the unit is a subordinate agent of the center. The power they enjoy is a gift from the center and can therefore be withdrawn at any time. Therefore, the unit is by no means autonomous and independent.
- 2. Single Government:** A single government has a single governing device. There is a single highest legislature, a single executive branch, and the highest judiciary. England, for example, is a unitary state. The legislature is the Parliament, the administrative body is the King in Council, and the supreme Judicial Body is the House of Lords.
- 3. Written or Uncodified Constitution:** A single government may or may not have a written constitution. For example, Great Britain and France are unitary states. France has a constitution, but Britain does not.
- 4. Rigid Constitution or Flexible Constitution:** Unlike the federal government, a unitary state may or may not have a rigid constitution. For example, the British Constitution is flexible, but the French Constitution is a little strict.
- 5. No special jurisdiction:** A single government does not require special jurisdiction with extensive jurisdiction. For example, even the Supreme Court of the United Kingdom cannot rule a law passed by Parliament.

Federal System of Government

The federal government is a type of national government in which the government has the power to delegate power to members of other elected states. There can be two layers of federal government in a country, either through a common body or through the authority laid down by the State Constitution. In a federal or federal government, a state or territory enjoys some rights available to an independent state. However, international diplomacy, national security, diplomacy, and other types of international business are conducted solely by the federal government. Pakistan, India, Brazil, Switzerland, Australia, Belgium and Canada are typical examples of federal government. The best federal government system is the US Government. This government is based on republicanism and federalism. In the federal

system, power is shared between the federal and state governments. In the system of federal government, authority never belongs to the government of the country. However, there may be certain powers that remain entirely in the federal government, such as defense policy, budget, international diplomacy, etc. The power hierarchy of the federal system begins at the federal level, flows to the state, and then to the local level. Its peculiarity is stated as,

- 1. Division of Powers:** In a federal government, the powers of management are divided among the centre and its subsidiaries. The powers can be dispensed in special ways. Either the charter states what powers the federal authority shall have, and leaves the rest to the federal states, or it states what powers the federal states shall own and leaves the rest to the federal government. The rest is normally referred to as residuary powers. In a federation, each the federal and state governments are impartial and self-sustaining within the spheres of their powers. One isn't subordinate to the other. Both derive their powers from the charter that is the ideal regulation of the land.
- 2. Separate Government:** In a federal system, each the centre and the states have their separate set of governmental apparatus. America is a federation of states. States have consequently separate legislatures and Separate executives.
- 3. Written Constitution:** A federal system has a written charter. As a federation is a political partnership of diverse states and therefore there ought to be a written settlement in the shape of a written charter.
- 4. Rigid Constitution:** The charter of a federation ought to be more or less rigid. It is regarded as a sacred agreement, the spirit of which ought to now no longer be effortlessly violated.
- 5. Special Judiciary:** In a federation, there are possibilities of constitutional disputes among the federal centre and federal states. All those disputes are to be adjudicated on the basis of the constitution.

The constitution is therefore the ideal regulation in a federation to which each the central government and the federal states must obey.

Success or Failure of Federalism in Nepal

In the federal system, the overall performance of the federal government and state governments, in specific, is the important determining factor for the success or failure of the very system. In the federal system, the general overall performance of the federal authorities is the critical figuring out element for the success or failure of the very system. Nepal's transition from a unitary to a federal system of governance has been pretty daunting in spite of the reality that the parliament has formulated and permitted numerous associated laws. The Constitution of Nepal has entrusted the executive, legislative, and the judicial features to all 3 tiers of the government — the federal government, provincial government and local government. Nepal now has 753 local governments, seven provincial governments, and one federal government. Local and provincial governments retain a number of political, financial, and administrative powers.

If the constitutional provisions are to be considered, 35

political, financial, and administrative powers are given to the federal government, 21 to provincial governments, and 22 to local governments. Federalism itself has been deemed as a expensive system. Likewise, there are 25 concurrent powers among federal and provincial governments, while 15 are shared among federal, provincial, and local governments. Nepal's districts have been accelerated to seventy seven from the preceding seventy five with six metropolis, eleven sub metropolis, 276 municipalities and 460 rural municipalities. A general of 6,743 wards were constituted in those 753 local levels. Each ward includes one ward chair in conjunction with four ward members. It can be referred to that Nepal's first federal finances of 2018-19 had allotted Rs 845 billion in the recurrent expenditure and Rs 314.28 billion for capital expenditure. In the second one federal finances of 2019-2020, the government had allotted Rs 957 billion as recurrent finances and Rs 408 billion capital expenditure. And, thinking about the difference between the executive budget and the finances for the improvement projects, it honestly displays terrible economic vulnerability.

Conclusion

Undoubtedly, no government has high-quality components simplest. Problems rise up while political leaders aren't sincere and fail to illustrate expert integrity. It is unlucky that a scenario has arisen wherein our federal government system has been drawn into a question in very short time especially because of the 'bad' politicians. There is a lot of room for improvement. We have experienced different governance inclusive of Rana rule, autocratic monarchy and constitutional monarchy. Nepal is in a test of federalism after the earlier sorts of governance. There isn't any denying that federalism has now no longer yielded the predicted effects because of the shortage of excellent guardianship. In the regions of staff management, law and institutional structure building, capacity building, fiscal transfers in a right way, etc. need to be executed in a coordinated manner. We not have the choice of strengthening and consolidating federalism through tackling all varieties of problems.

If there is only strong intergovernmental relations, effective fiscal federalism, successful administrative federalism, activism in law making and promptness in service delivery, there will be no major problem in the implementation of federalism. If the organs of the country associated with those problem areas come to be sensitive, the common citizen will feel the change, and will help to resolve or minimize contradictions related to federalism. In order to make sure the achievement of federalism, the federal governments need to now no longer be stingy in provision of the guardianship visible on the different tiers of the government. Local governments additionally must pay honest interest to the implementation of federalism. There isn't any need to panic or sense annoyed in the implementation of federalism while there are a few ups and downs. Things will change if politicians become sincere sufficient in the implementation of federalism.

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