

# Nascent Federalism in Nepal: An Observational Review in Its Evolution

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**Abstract**—Nepal practiced a centralized unitary governing system for long and has gone through the federal system after the promulgation of the new constitution on 20 September 2015. There is a big paradigm shift in terms of governance after it. Now, there are three levels of governments, one federal government in the center, seven provincial governments and 753 local governments. Federalism refers to a political governing system with multiple tiers of government working together with coordination. It is preferred for self and shared rule. Though it has opened the door for rights of the people, political stability, state restructuring, and sustainable peace and development, there are many prospects and challenges for its proper implementation. This research analyzes the discourses of federalism implementation in Nepal with special reference to one of seven provinces, Gandaki. Federalism is a new phenomenon in Nepali politics and informed debates on it are required for its right evolution. This research will add value in this regard. Moreover, tracking its evolution and the exploration of the attitudes and behaviors of key actors and stakeholders in a new experiment of a new governing system is also important. The administrative and political system of Gandaki province in terms of service delivery and development will critically be examined. Besides demonstrating the performances of the provincial government and assembly, it will analyze the inter-governmental relation of Gandaki with the other two tiers of government. For this research, people from provincial and local governments (elected representatives and government employees), provincial assembly members, academicians, civil society leaders and journalists are being interviewed. The interview findings will be analyzed by supplementing with published documents. Just going into the federal structure is not the solution. As in the case of other provincial governments, Gandaki also had to start from scratch. It gradually took a shape of government and has been functioning sluggishly. The provincial government has many challenges ahead, which has badly hindered its plans and actions. Additionally, fundamental laws, infrastructures and human resources are found to be insufficient at the sub-national level. Lack of clarity in the jurisdiction is another main challenge. The Nepali Constitution assumes cooperation, coexistence and coordination as the fundamental principles of federalism which, unfortunately, appear to be lacking among the three tiers of government despite their efforts. Though the devolution of power to sub-national governments is essential for the successful implementation of federalism, it has apparently been delayed due to the centralized mentality of bureaucracy as well as a political leader. This research will highlight the reasons for the delay in the implementation of federalism. There might be multiple underlying reasons for the slow pace of implementation of federalism and identifying them is very tough. Moreover, the federal spirit is found to be absent in the main players of today's political system, which is a big irony. So, there are some doubts about whether the federal system in Nepal is just a keepsake or a substantive achievement.

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provincial government.

## I. BACKGROUND

NEPAL has gone through big political shifts in the past three decades, i.e. from the one-party system to multiparty democratic system in 1990, monarchy to republican in 2006, and unitary to federalism in 2015. These changes were outcomes of different forms of movements, demonstrations, and agitations launched in the country.

The governance of the Nepali polity was highly Kathmandu-centric. The country had practiced a unitary form of government for a long time and decentralization was the long-standing debate. The inclusive and participatory governing system had also been the issue of Nepali politics, particularly after the restoration of democracy in 1990. However, there was no meaningful inclusion and participation of marginalized communities within the civil service, security forces, and education [1]. Despite its diversity in terms of ethnicity, language, and religious traditions, the political power had largely been in the control of so-called high caste *Parbatiyas* [2]. In this context, federalism was deemed to be a good alternative governance system for Nepal, not only for the decentralization viewpoint but also in terms of inclusion and access to the state [3]. After going to federalism, it has been expected that there will be proportional development in all parts of the country and the economic, social, and religious discrimination will be diminished.

After a long struggle for a robust democratic political system, a new constitution was promulgated on 20th September 2015 with the provision of federalism in Nepal. This constitution envisioned three levels of governments (namely federal, provincial and local government) whose relations are guided by principles of three Cs (coexistence, cooperation, and coordination) [4]. As per the constitution's provision, there were elections in 2017 and consequently, Nepal got 1 federal, 7 provincial and 753 local governments.

In the federal system, sub-national governments are not creations of the federal government but, derive their authority directly from the people as done by the federal government [5]. So, in a sense, the provincial government has enormous opportunities for economic and political growth since it has the budget and authorities to mobilize at the provincial level [6]. Being in between federal and local governments, provincial governments are believed to play the role of coordinating other two governments as well. But on the other hand, it has various internal and external challenges too. Moreover, the inter-

governmental relation is a very broad concept referring mainly to the relations among the federal, provincial, and local governments. Additionally, it also deals with the horizontal relations i.e., relation of the provinces to one another and among the local units to one another [7].

Gandaki province, somehow centrally located on the map of Nepal, consists of 11 districts, which are Mustang, Manang, Gorkha, Lamjung, Kaski, Syangja, Myagdi, Baglung, Parbat, Nawalparasi (East), and Tanahun. Having Pokhara as its headquarters, it includes 85 local units (1 Metropolitan City, 26 Municipalities, and 58 Rural Municipalities). Hydropower, tourism, and agriculture are the major strengths for the prosperity of this province [8]. Its population is 2,403,757 as per the census in 2011. The province's urbanization is rapid with the rate of 3.4% of urban population growth per annum and this is nearly threefold high compared to that of the country [9].

Federalism in Nepal is judged on the basis of success of provincial governments since the provincial arrangement is one of the vital and new measures adopted in the Constitution of Nepal. These governments have been running for over three years. Their challenges and opportunities have been noticeably surfaced. This paper tries to explore the evolution of Nepali federalism through a provincial lens. There have been many political ups and downs affecting Nepali polity in recent months and this has badly hampered the implementation of federalism.<sup>1</sup> However, this paper is confined to the review of the performance of the provincial government in Gandaki province and its relation with the other two governments. This paper is based on both the primary and secondary sources of data.<sup>2</sup> Primary data were collected from in-depth interviews with key informants and observation methods. Secondary data were gathered from the publications of the government offices, media and other researchers or research organizations.

In this paper, the functioning of federalism in Gandaki province is discussed first. The section following this will deal with its relation with the other two governments, namely- the federal and the local governments. The conclusion of this study is presented at the end.

## II. FUNCTIONING OF FEDERALISM IN GANDAKI PROVINCE

Constitutionally, the power at the executive and the legislative level was devolved in the local, provincial, and federal governments. But the judiciary remained at the federal level only. Among the 3 governments in Nepal, current federal and local governments had somehow been in existence for a long time, even in the unitary system. The province is new in the real sense and it has more challenges, as it has to begin from nothing.

<sup>1</sup> On December 20, 2020, Prime minister Khadga Prasad Oli dissolved the House of Representatives due to internal problems within his party and called for the mid-term election. However, the Supreme Court overturned that decision on February 23, 2021. Again on 21 May 2021, he dissolved the House of Representatives and called for the mid-term polls for November 12 and 19 [44].

<sup>2</sup> The data for this study were gathered when the author was working with Democracy Resource Center Nepal (DRCN). This paper finds its basis on the author's Master's degree thesis [10]. At the province level, 1 minister from the

### A. Organizational Setup

After the establishment of the provincial government, some offices such as the Planning Commission, the Office of the Chief Attorney, Directorate under various ministries, Agriculture Knowledge Center (AKC), and Veterinary Hospital and Livestock Service Expert Center (VHLSEC) were established at province level. However, crucial institutions like the Police and Public Service Commission are yet to be founded. Though some preparations for initiation of these institutions have been made, the federal government has not drafted related laws, so, the process initiated by the province could not go ahead.

An Under Secretary of Health Directorate emphasized pertaining confusion of who is responsible for performance assessment and leave approval of employees as well as registration and renewal of medical firms such as private hospitals, clinics, pathology labs, etc. According to the spirit of the Constitution of Nepal, the expenditures at the top should be decreased, and the expenditures at the bottom should be increased and provincial government officials complained that the resources are controlled by the federal government and this is against the essence of federalism [11].

Officials interviewed in provincial offices unanimously alleged the federal government for providing inadequate institutions to the province. An Under Secretary from the Ministry of Social Development (MoSD) said, "Province is conducting its O & M survey that will later guide the type of offices and the number of employees we need. Once the public service commission in the province starts working, state apparatus in province-level runs smoothly." According to him, there is no office related to women, cooperatives, and so on at the province level.

There was a regional level office of education to look after 16 districts in the western development region in the pre-federal structure. Now this office has been dissolved and a similar office named Education Directorate has been formed under the provincial government and it looks after all the districts of this province. The director of this office said, "We are in Directorate, but there is no office to be directed. There is no office under us and we are having a tough time working. This is like a body without limbs. Education Development and Coordination Unit (EDCU) in the district should have come under us, but it is now with the federal government." Other interlocutors also argued that there is no use of EDCU in districts under the federal government.

Institutions established under the provincial government are facing a big challenge in terms of human resources as well. In particular, they have a shortage of technical human resources. Lack of motivation and encouragement along with lack of a

provincial government along with 22 Provincial Assembly (PA) members and 35 government officials and 12 members from the civil society were interviewed for this research. In order to understand the relation of the provincial government with local governments, 4 local units out of 85 in Gandaki province were also visited in 2019. Though this was non-probability sampling, a mixed variety in terms of geographical locations and rural/urban setup was ensured in this selection. 3 Mayors/chair, 1 Deputy Mayor, 3 Chief Administration Officers (CAO) and 1 Chief of Education Department were key informants from the local level.

reward and punishment mechanism is hindering the performance of government employees [12].

No doubt, federalism requires many offices and employees for multiple governments. However, the report of the committee for federal administration restructuring led by Kashi Raj Dahal suggests that the institution created should be small and efficient [13]. According to DRCN's research report [14]: The O&M survey commissioned by Gandaki province had recommended an increase in the number of ministries to 10 from 6. The provincial government would have to pay the additional cost of salaries, allowances and other benefits arising from an increase in employee numbers from that approved by the federal government from its internal revenue. A large organizational structure might also be challenging from a fiscal point of view for a province with limited internal income (p. 23).

Finally, the Chief Minister (CM) of Gandaki province increased the number of ministries to 11 in May 2021. This does not comply with constitutional spirit. The provincial and federal governments should have strengthened and provided more responsibilities to local units instead of opening their institutions.

#### *B. The Performance of the Provincial Government*

The first year (the fiscal year 2018/19) of the provincial government was spent on setting up new offices and drafting basic essential laws. It had a hard time promulgating procedures for implementing projects. It could not spend a big chunk of the allocated budget for the development projects. Some of the respondents were optimistic that the provincial government will show its significance in later fiscal years by providing good services and development projects. The provincial government has envisioned short-term, mid-term, and long-term plans and has been implementing projects accordingly. It has given priority to agriculture and tourism. However, the provincial government is sandwiched between federal and local governments and could not function to its fullest. Interlocutors mentioned that the performance of the provincial government has not been satisfactory. Even PA members from the ruling party- Nepal Communist Party (NCP)<sup>3</sup> do not seem much happy. The main opposition party's leader said that the provincial government has not brought any project to make citizens feel its presence. He further added that there is a trend of allocating a budget in the package without properly defined allocation so that the government can manipulate it later according to vested interest. A PA member associated with Janata Samajbadi Party from Gorkha criticized that citizens are not optimistic about the provincial government due to its poor performance.

According to a PA member affiliated with Nepali Congress (NC) Party, the provincial government has not been effective and efficient. He alleged that the provincial government, as well as the provincial assembly, have been influenced by the central

level leader of the ruling party. He resented that there has not been meaningful participation of marginalized groups despite their presence due to mandatory provision.

#### *C. Service Delivery and Development*

The Council of Ministers (CoM) in Gandaki province had taken the plans and policies as a guiding document. The provincial government allocated the budget to various projects and implemented them; the major achievements are yet to be seen. It spent slightly over a half (57.97%) of the development budget in the fiscal year 2018/19 and this indicates its poor performance [15]. However, this was not the only case of this province. Three of the seven provinces were only able to spend less than half of the budgeted expenditure in that fiscal year [16]. In the following year (i.e., fiscal year 2019/20), 63.52% of the budget was spent [17].

The provincial government defends that inability in budget expenditure was basically due to the reluctance of the federal government to provide required human resources and laws. Moreover, development works are adversely impacted due to lockdown following the fear of COVID-19 as well.

The provincial government could not operate as expected since the federal government did not adequately cooperate. The Minister of Ministry of Internal Affairs and Laws (MoIAL) of provincial government of Gandaki mentioned, "Three prerequisites of government, namely: budget, administration, and security are most required for running a state, but at the moment we have the control only over budget, but neither police nor administration." With this comment, he was indicating that the administration of the province is adversely affected by the inadequate employees and most of those who have joined the province so far are inexperienced and inefficient. Though the province could have recruited its employees on its own, the laws related to public service commission and civil service are yet to be formulated by the federal parliament.

#### *D. Accountability*

The essence of federalism is to increase the access of the state to its citizens and vice versa. It is also supposed to increase the accountability of the government. Since the provincial government is more participatory and closer to the people, it should be more accountable. Provinces are moving towards devolved service delivery which is good. The budgets will also need to follow the devolution along with adequate powers and improved accountability measures in order to maintain good governance.

The provincial government in Gandaki has attempted to uphold accountability. It started the Hello CM program on August 20, 2018 to redress people's grievances to achieve the goal of good governance using the latest technology involving all stakeholders. It entertains the grievances freely and conveniently coming through various means such as telephone, fax, email, in person etc., tracks and responds to them as well.

since there were internal conflicts within the newly formed party and the Supreme Court stated in 2021 that the new party could not have its name as NCP since there already exists a party with this name.

Apart from lodging complaints, citizens can also interact with the government easily and transparently. From the beginning to the end of April 2021, 592 out of 721 grievances were addressed while the rest 129 are under the process [18]. The provincial government telecasts a TV program on a fortnightly basis called *Janatasanga Mukhyamantri* (CM with the people) which is envisioned to share the government's vision, mission, goal, policy, program, and achievements with the people and get feedback from them [19]. The information officer of Office of CM and Council of Minister (OCMCM) said that all the decisions made by the CoM and other related documents are uploaded to the official website of OCMCM. There are also designated Information Officers in each Ministry [45]. However, as in other provinces, this province also has not prepared Provincial Government Citizen Guide informing residents how to access provincial services. Similar to others, Gandaki province also does not publicize its budget in a layman version [20].

In the parliamentary process, the ministers are to be accountable to the PA and address questions and issues raised by its members. However, the government was alleged for paying less attention to the assemblies and the thematic committees. The chairperson of the Province Affairs Committee in the Provincial Assembly informed that it was difficult to get the required responses and documents from the government. The chairperson of the Finance and Development Committee (FDC) also indicated the reluctance of the ministries to implement the directives and recommendations made by the Committee. According to the report of the FDC, out of the 11 decisions and directives, 3 were not implemented, 5 partially implemented, and 3 were fully implemented by the government [21].

### III. RELATION WITH OTHER TWO GOVERNMENTS

Article 232 of the Constitution of Nepal clearly says that the relationships among federal, provincial, and local governments will be guided by the principles of cooperation, coexistence, and coordination. However, it was widely reported that these principles are little understood or ignored.

The schedules of the constitutions are evident that the federal government kept much power with it which was against the principle of devolution of power. Moreover, lists for exclusive rights of the province and local governments have few items while those of concurrent rights are heavily loaded. According to the work distribution regulation of federal and provincial governments and the Local Government Operation Act (LGOA), the federal government has 606 subjects to deal with while provincial and local governments have 267 and 302 respectively [22]. Though concurrent rights among the governments are common in a federal structure, a large set of functions in this category dilutes accountability since there will be a lack of clarity on which level of government is eventually responsible for which concurrent power [23]. This clearly indicates that the federal government is reluctant to decentralize

power. On the other hand, a large set of concurrent powers demands fine coordination among the governments.

Now, the challenge to the federal restructuring is to establish vertical and horizontal linkages between the federal, provincial, and local governments. Though the schedules of constitution delineate exclusive and concurrent lists of functions of the three tiers of the governments and Unbundling Report<sup>4</sup> also explains the functions of the three governments, there are grey areas in which the jurisdiction of the three tiers of government overlap [24]. For instance, drinking water is included in the exclusive rights of local government and provincial government and also mentioned in concurrent rights of the provincial and federal government. Furthermore, it is also mentioned in the concurrent rights of all three governments.

Conflicts are inevitable in a federal structure since there are multiple tiers of government for the same territory. Therefore, a well-defined demarcation of functional roles and responsibilities, and coordination among all government tiers are required. In the context of Nepal, some problems have been emerged due to friction between the governments. Anderson [26] writes, "Federations can deal with conflicts over the distribution of powers by using the courts, emergency powers, constitutional amendments, political compromise, and elections" (p.29). The Constitution of Nepal also has envisioned some provisions such as constitutional bench in court, IPC, PCC, various acts etc. to settle disputes among the governments [7].

#### A. Relation with Local Governments

Province has grievances towards the federal government for not cooperating and not delivering the power to the province. In the same manner, the local governments blamed the province for not coordinating and not delivering power to local units.

Interlocutors in local level alleged that the provincial government was not coordinating with the local government while formulating projects. The same was true between federal and local governments. This has resulted in overlapping and duplication. For instance, the province and local government both had conducted programs like vaccination, purchasing medicine, training, but there was no coordination between them and most of the participants and beneficiaries were the same.

The Mayor from Waling Municipality explained that the province does not accept the local unit as a separate government. The CAO of the same Municipality also had a resembling opinion that the provincial government dominates local governments as if they are under the province. He further clarified that most of the correspondences made by the provincial government sound imposing and commanding.

The Mayor of the Devchuli Municipality said that the local government knows genuine farmers, but the provincial government does not coordinate while identifying them for grants and they encounter fake farmers either by deliberation or by chance. It was reported that there is a road project going on which was implemented by the provincial government. The

<sup>4</sup>The Government of Nepal has prepared an "unbundling report" for clarifying concurrent jurisdiction among three tiers of government (for more details, see [25]).

Mayor said that the local government could have monitored it effectively if it had received a letter in time.

Another friction was observed between district-level offices under province-level government and local government. There was no concept of the district in the new political setup of federal Nepal. The existence of the District Coordination Committee (DCC) and some other district-level offices under the provincial and the federal governments have created confusion and suspicions to the local governments.

Districts were used as the basis for the restructuring of the province and the local units and their existence should have ended at that point. Initially, the district level offices from the old political system were dissolved. However, some of them were restored later under provincial and federal governments in different names such as VHLSEC, Health Office, AKC, etc.<sup>5</sup> In Prof. Pitamber Sharma's words, "Going to federalism with the old political and administrative hangover of the district is paradoxical" [27].

The respondents interviewed at local governments also believed that the federal government's decision to restore district level offices under provincial governments was against the true spirit of federalism. The CAO of Devchuli Municipality said, "The Education Directorate is in Pokhara. Local schools come to us for estimation of construction. But they have to travel to the Education Directorate based in Pokhara multiple times even for a project of a hundred thousand rupees. They could have done this easily through us instead." This was also mentioned by the Chief of the Education Department in Gaidakot Municipality. On the other hand, the province level interlocutors highlighted that local governments are not cooperating with the province. According to them, local governments are even reluctant to send data related to agriculture, health, education etc. Public Health Administrator of Health Office Kaski, said, "It was easy to organize a program at the local level in the past. We used to decide what to do. We just went there to implement it. But these days, we need to coordinate with the local governments. The health sector is not on their priority list and it is difficult to get their time for our programs."

The Chief of VHLSEC in Pokhara said, "All the three governments provide grants for model farms and, sadly, the same farmer is taking benefit from multiple governments. Though a recommendation letter is required for this from the local government, the latter easily provided the letter without any concern." According to him, 30 farms that were selected for grants from the provincial government and already received the first installment, were found to have nothing at all on the spot monitoring. Even PA members from the ruling party were not satisfied with the process and the way of providing grants [28].

The Under Secretary of Health Directorate mentioned that alike type of training of vaccination was conducted by MoSD from the provincial government, Health Directorate, Health Training Center, and Local Government in the same year. She asserted that there was no coordination among one another for this and most of the participants in the training were the same.

<sup>5</sup>Some of these offices are in all 77 districts of the country while others have to look after 2 to 3 districts by one office.

Another serious concern was regarding the lack of coordination and communication between the provincial and local governments especially while allocating budgets for different plans.

Concerns on duplications were raised in Province Coordination Council (PCC) and the Fiscal Council and hence the National Planning Commission has prepared a document called "The Standards Relating to the Classification and Sharing of Development Programs and Projects Falling under the Responsibilities of Federal, Provincial and Local Levels, 2019" [29]. Likewise, federal and provincial ministries have also tried to avoid duplication in budget allocation.

In reference to the interrelation among the three governments, the CAO of Devchuli Municipality shared that there is no coordination institution in day-to-day affairs with the province as in the Ministry of Federal Affairs and General Administration (MoFAGA). Moreover, MoFAGA has assigned an Under Secretary as the focal person for each province to coordinate with local units. Respondents from local units indicated that such focal persons are needed for the provincial government as well. Local governments receive more resources from the federal government than the provincial government. Thus, it is more likely that local governments will be more guided by the federal government than the concerned provincial government. This might also cause tensions between the local and provincial governments [7].

#### *i. Provincial Coordination Council (PCC)*

To manage and foster cooperation between governments, a system of intergovernmental consultation and cooperation is needed. The LGOA (Article 105) mandates the establishment of the PCC under the leadership of the CM of the province. This council is envisioned to facilitate the coordination between local and provincial governments on matters of coherence in policies, strategic coordination in planning, concurrent-jurisdictions, and delineation on the use of natural resources.

The chief and deputy chief of all 85 local units and DCCs, secretaries of provincial Ministries along with the members from the provincial cabinet are members of PCC. It has held four meetings so far [30]. A facilitation committee (known as Province Coordination Council Facilitation Committee) of the PCC has also been formed since the whole body cannot meet frequently. This consists of 21 members including cabinet members from the provincial government and some representatives from local governments as well. The provincial government has already passed the procedure for conducting PCC meeting.

Areas of cooperation and coordination are not practiced via any formal mechanism and are dependent on personal contact/relation and informal communication. The Deputy Mayor of the Waling Municipality believed that except for the formation of the PCC, no other formal mechanism has been established among the governments to establish and regularize their relation.

The interviewed elected representatives did mention that

they took part in those meetings, but equally conceded that the meetings were not effective. Since there was no two-way communication and very few from the local government got a chance to speak, otherwise, their role was to listen to the ministers from the province. The Chairperson of Bulintar Rural Municipality said, "They [people from PCC] invite us and we go. But our role is to listen to them and get back home." Such meetings were concluded with formalities where a few representatives from local governments complained and concerned ministers from the provincial government responded.

Though these meetings were anticipated for being a good platform of coordination, the forum ended up fair in practice since there used to be a big crowd and elected representatives could not discuss minutely on their complaints.

### *B. Relation with Federal Government*

Gandaki province had asked the federal government for many things, but there was no response at all. Those demands include assigning them the PA building, ministerial buildings, naming the newly established district as Nawalpur and granting required institutions for the new district, administrative plaza, international sports complex, establishment of the provincial university, etc. But the federal government seemed apathetic to its demands. The provincial government allocated a budget for permanent infrastructures in yesteryears, but could not do anything as it was unable to own land for it. Thus, the budget remained unspent.

Corroborating some of the political events that have occurred over the last three years, a level of friction between the provincial and the federal governments has vividly been reflected. The federal government seems quite indifferent to the provincial demands and perhaps not well prepared and serious to discuss the provincial agendas. Contrarily, the provincial government is determined and adamant about affixing their roles, powers, and jurisdiction as soon as possible. They are aware of the growing negativity against their government and their performance and intend to prove themselves as one equal government against the other two (federal and local).

Some employees are yet to join the province. Especially, a few seats of Under Secretaries are still vacant. The federal government has the intention to send some officers as secretaries. Hence Under Secretaries are reluctant to join in the province as they see no sign of their promotion to Secretary.

Duplication and overlap of budget allocation for the same project were seen in between province and federal government as well. The Chief Whip of the ruling party in Gandaki province said, "There are some problems of overlapping in budget allocation. The federal government is also allocating the budget of a small amount simply because somebody requested to do so. But, the bigger projects with national pride should definitely be handled by the federal government, those of medium size be conducted by province and smaller by the local government."

Government representatives complained that provincial and federal offices have a lengthy and not-a-straight-forward process of communication. For instance, if the health directorate in the province has to send a letter to a ministry in

the federal government, it should go through MoSD, CM's office, Prime Minister (PM)'s office and the concerned ministry.

The MoIAL could not do anything related to internal affairs since the federal government has not passed any law related to this. The Minister of MoIAL in Gandaki mentioned that the Chief District Officer (CDO)'s current role may raise problems in the changed political context. According to him, the security of any district so far is controlled by the CDO who is under the federal government, and the MoIAL at the province level would also have the right to control the security of the district. In that case, there might be conflict.

EDCU is there in every district under the federal government. Both EDCU and local governments have responsibilities for school education at the local level. The local and provincial governments were not happy with the its existence and believed that this was against the essence of state restructuring and decentralization. Representatives from provincial offices mentioned that EDCU could be given to the provincial government. Moving one step ahead, the Chief of the Education Department of Gaidakot Municipality expressed that EDCU should be closed if we respect the constitution and really want federalism. The local and provincial governments are not happy with this and believe that this was against the essence of state restructuring and decentralization. Service delivery of these two offices will badly be hampered if there is no clear understanding of the roles and authority of these offices [31].

According to an NC's PA member from Kaski and a journalist, the CM Prithvi Subba Gurung of this province was quite vocal about the federal government not being very supportive and has publicly expressed his views on many platforms. He alleged that the federal government was not coordinating with the province and reluctant to share the power with provinces [32]. Another PA member affiliated with Rastriya Jana Morcha (RJM) Party stated that the federal government was trying to limit or seize back the rights that are conferred to the provincial government.

#### *i. Centralized Mentality*

Decentralization was one of the motivations for the restructuring of Nepal. However, the federal government was alleged to not being generous in handing over the power to sub-national governments. Even after more than three years, the provincial government still has not got enough staff. Most of those who have been sent are new and inexperienced. Moreover, there is a lack of required laws for the province. Some province-level respondents raised their concerns over security issues- including the attempts of the federal government to curtail the right of the provincial government to deploy police for peace and security, keep district level structures including the CDO offices, which the constitution does not recognize, and give extra powers to CDOs [33]. This obviously brings conflict between the MoIAL of the province and the CDO of the federal government. Since the federal government is pulling back the power even of those subjects which were mentioned in exclusive rights, there will be more such attempts while dealing with concurrent rights.

It is also blamed that the federal government is not willing to transfer the power to sub-national governments. This might be partly true as some scholars also indicated that this kind of inertia is normal during the transformation from the unitary system to the federal system [46], [47]. While talking about devolution of power, Dr. Pandey speculated on this phenomenon in 2009. He writes: Fiscal federalism is a challenging proposition in a country that has little or no tradition of vertically sharing the power of the purse in governance. Decentralization has been a much talked about issue in political and development discourse in the country. But the idea has been peddled not to facilitate but to block such sharing [34, p.56]. Moreover, "The 2015 Constitution has not noticeably enhanced the ability of sub-national governments to collect tax revenues or other sources of own revenues" [23, p.17]. The main sources of revenue such as income tax, Value Added Tax (VAT), custom and excise are all with the federal government [35] and hence, there is no significant alteration in revenue collection in pre-and post-federal Nepal. That means the sub-national governments are highly dependent on the federal government for fiscal transfer. The federal government determines its budget ceiling on its own first and the only remaining would be transferred to the sub-national government. The reluctance of the federal government to provide required human resources and laws somehow indicates that it is not happy to hand over the power to the sub-national government.

The National Natural Resources and Fiscal Commission (NNRFC) is the crucial body in recommending/determining the distribution of revenues to sub-national governments. But there has been a significant delay in its formation and empowerment. Only the chair of NNRFC was appointed for a long time [29]. It got two members in May 2021. The laws enacted to implement fiscal federalism through NNRFC continue to curtail the power of the commission resulting in more degrees of freedom towards the federal government [36].

The CDO office and the EDCU are the offices of the federal government at the district level. Provinces have no such offices in districts. The federal government is slow in handing over police and make a legal atmosphere for that at the province level. Many old laws do not recognize the province and hence new laws are required for this changed context. But the federal government has no enthusiasm for this. Whatever laws have been drafted have clearly given more power to the federal level. Though the works related to land reform, land survey, and land revenue were supposed to be performed by the local government and monitored by the provincial government, all such issues are taken care of by the federal government in current practice.

Without any specific criteria, a few offices in some provinces were handed over to the province while others of the same kind from other offices were withheld by the federal government. There was no coordination with the provincial government when these kinds of decisions were made. The Pokhara Academy of Health Science (formerly known as the Western

Regional Hospital) is now under the federal government. According to a journalist from the *Setopati* and an NC's PA member elected from Kaski, the provincial government was ignored initially by the hospital in March 2020 while establishing a Polymerase Chain Reaction (PCR) machine for testing the infection of Corona virus. This responsibility of arrangement for Covid test was under the provincial government. Moreover, the hospital reportedly hid the fact that it had already had a powerful machine like that. This seems to be the sheer indifference of the hospital under the federal government to the presence of the provincial government.

According to the CM Prithvi Subba Gurung, the provinces were new, and therefore, they needed new laws, physical infrastructure, human resources, and other sources for the effective functioning of offices, but the federal government is reluctant in making provincial government efficient.<sup>6</sup> He clarified, "All powers and their devolution are under the command of the federal government, we have asked the federal government to demarcate what our powers and jurisdiction are" [32]. A PA member affiliated with NC also said the federal government was treating the provincial government as a lesser entity. As told by a PA member from NCP, the provincial government seems opposition in terms of relation with the federal government.

Stakeholders alleged that the political leadership, as well as bureaucracy in the center, has a Kathmandu-centric mentality and the leaders are reluctant to devolve the power to the provinces. The Chief Attorney of Gandaki province emphasized that the federal government is responsible for the delay in the implementation of federalism through the province.

TABLE I  
HUMAN RESOURCES ADJUSTMENT AT THE THREE TIERS OF GOVERNMENT  
[20]

SN	Governments	Approved positions (Including Health sector)	Adjusted Employees
1	Local	67,719	43,807
2	Province	22,297	13,821
3	Federal	48,606	39,960
4	Reserve Pool	0	2,443
	<b>Total</b>	<b>138,622</b>	<b>100,031</b>

As shown in Table I, there are 48,606 positions in the federal government out of which 39,960 were occupied after employee-adjustment. No doubt, they both are big numbers, given that more responsibilities and roles have been shifted to provincial and local governments. The Civil Servant Adjustment Act gave an opportunity to the civil servants to choose their preference for any of the three levels of government. A large number of civil servants preferred to stay at the federal level and very few were interested to go to subnational governments [37]. According to Prof. Sharma, the political parties had to lead the implementation process of federalism, but they handed over that responsibility to bureaucracy which was indifferent to the spirit of federalism [27]. He further added that the unbundling

<sup>6</sup>Told by CM Prithvi Subba Gurung on a formal discussion program related to the features of the constitution held in Pokhara on September 18, 2018, the researcher attended this program.

of the list of rights mentioned in the constitutions was done by the bureaucratic team led by the Chief Secretary and the report was passed by the cabinet without consulting with the political parties, experts, or stakeholders. According to him, this report tries to pull the rights given to sub-national governments back. Likewise, Prof. Khanal argues that the constitutional arrangements and the legislation enacted to manage sub-national governance seem to favor a very centralized structure. He writes, "Despite enumerated jurisdictions and grant of autonomy, both provinces, and local governments are required to comply with and follow federal directives" [38, p.40].

According to a profound political scientist Riker, as cited in [39], "The federal relationship is centralized according to the degree to which the parties organized to operate the central government controls the parties organized to operate the constituent governments" (p.101). In other words, the federal system will be more centralized if the central parties control the parties competing at the sub-national level. This has been true in Nepali context as well, the political parties in the center not only control the parties competing at the province and local level, but their party organization is yet to go in a federal structure. Moreover, there was a split in the ruling party NCP and the ripples were seen also at the provincial level and the government faced a crisis. CM Prithvi Subba Gurung was heading the government with two-third majority in the past, but lost a confidence motion in June 2021 and the parliamentary party leader of the Nepali Congress (NC) in Gandaki Province, Krishna Chandra Pokharel 'Nepali' has been appointed as the new chief minister of the province [48].

#### ii. *Inter Province Council (IPC)*

Article 234 of the constitution mentions that there shall be an IPC to settle political disputes arising between federal and provincial governments or between provincial governments.

The first meeting of IPC was called for September 9, 2018 by PM Khadga Prasad Oli. On September 7, 2018, Gandaki province managed a meeting among the CMs in Pokhara. It intended to discuss common problems of provinces and take consolidated voice to the proposed IPC meeting. All CM (except CM from Karnali province Karna Bahadur Shahi) attended it and proposed a 9-point declaration to address the problem forming a high-level political mechanism under the PM to institutionalize federalism and also to set up a temporary secretariat of the IPC. However, this seemed to have backfired to the CMs as the PM seemed offended. The PM canceled the IPC meeting after learning of the meeting of CMs in Pokhara. Analyzing this cancellation, Parajuli [40] writes, "The Prime Minister's anger may be understandable from a party functionary point of view given that six out of seven chief ministers are his subordinates in the party, but not acceptable for the head of a federal government". The relationship between the provinces and the federal government was particularly difficult, and high-level representatives of the province were publicly critical of the federal government after the cancellation of the meeting.

IPC's first meeting took place only on 10th December 2018 in Kathmandu. All CMs put forward their major grievances,

which were lack of staff and laws. The meeting formed a task force under Minister for Home Affairs to suggest the ways to settle the issues of provinces [41]. After the IPC meeting, the relationship between the federal and provincial governments was considered to be relatively better. Its second meeting, held on 18 December 2018, endorsed the report on Inter Province Facilitation produced by the task force. This meeting also endorsed a 29-point 'Federalism Implementation Facilitation Action plan', which consisted of deadlines on the formulation of umbrella laws, filling vacant positions of civil servants in provinces, and bringing the crucial NNRFC into operation [42]. The federal government committed to complete all the outstanding tasks, including the legislation of key federal laws and completing the process of employee integration [43]. The third meeting held on 26 April 2019, basically, discussed the issue of budget overlap and duplication.

Some of the commitments made by the federal government in these meetings have not been met yet. For instance, the laws related to federal police, federal civil service, etc. were supposed to be drafted by February/March 2019 as per the 29-points commitment have not been penned yet.

These meetings were a good sign of cooperation and coordination between provincial and federal governments. However, the IPC meeting has not been called for a long. This might be due to the COVID-19 pandemic. Moreover, the CMs and PM had to give attention to other kinds of stuff instead because of the political turmoil in the country.

#### IV. CONCLUSIONS

There is a big paradigm shift in terms of governance in Nepal after the introduction of federalism. However, just going into a federal structure is not the solution. Since federalism is new for Nepal, the provincial governments have struggled with a number of challenges. The federal government is reluctant in sharing with the other two governments and is enjoying much power and authority.

The provincial governments are yet to go-ahead from their early stage of learning to administration and service delivery, and they are not provided with the required human and physical resources. The provincial government could have functioned better than this if the federal government had cooperated with it by enacting required laws in time. If there had been a well-defined implementation plan of federalism in hand and a more realistic timeline had been set, federalism in Nepal could have achieved more than this. Nepali federalism looks highly centralized and sub-national governments are impatiently seeking the power to practice their rights on their own. Despite these problems, the provincial government in Gandaki province had finished the preliminary task and was attempting to go for the real work. The COVID-19 pandemic badly hampered its functioning.

The intergovernmental relation has not been so smooth due to unclear jurisdiction and ambiguity in laws. These are explicitly noticed mainly in sharing resources, the jurisdiction of the three tiers of government, lawmaking, integration of employees etc. Such confusions jeopardize the aspirations of the public. Hence, there should be good coordination among the



governments. Moreover, all the elements of Nepali society should cooperate for the implementation of federalism. The result will be seen in a few years to come.

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<sup>7</sup> BS= Bikram Sambat is Nepali calendar which is ahead of the Gregorian calendar by 57 years.

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