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Akanshya Shah

OBSERVER RESEARCH FOUNDATION

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About the Author

Akanshya Shah is an Associate Fellow at ORF. Her research interests include Nepali politics and Nepal's foreign policy, specifically its relations with India and China. At ORF, she is currently focussing on Nepal's ongoing peace process and related developments. Akanshya worked in the Nepali media for about a decade and continues to write regularly for the country's mainstream newspapers.

Nepal's Continuing Quest for Federalism and Peace

Introduction

Nepal is currently experiencing perhaps one of the most turbulent phases in its contemporary political history. In 2008, the 240-year-old institution of monarchy—for long seen as a symbol of unity, integrity, and sovereignty—was abolished and the nation was declared a republic, resting on the three pillars of freedom, secularism and pluralism. The 'New Nepal' hopes to meet the aspirations of the marginalised sections of society, including women, *dalits*, *janjatis*, and other communities that have faced systemic discrimination at the hands of the state.

Thus, the agenda for state restructuring, in principle at least, is aimed at ending the inequalities that exist in Nepali society and state—inequities that helped the monarchy and the Rana oligarchy to thrive. The end of the monarchy, therefore, became the driving force for the proponents of 'New Nepal'.

The Communist Party of Nepal (Maoist)-led "People's War" (1996-2006) derived its strength from cadres of the People's Liberation Army belonging to various ethnic groups. The Maoists embraced the agenda of federal restructuring along ethnic lines to end socio-economic disparities and political and regional discrimination faced by the ethnic communities.

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The ethnic groups rallied behind the Maoist-led movement to overthrow the monarchy, which was seen as the cause of all ills in Nepali society and a major stumbling block to genuine democracy and meaningful reforms.

In 2005, New Delhi mediated a 12-point agreement between the Maoists and the seven-party alliance. This agreement paved the way for *Jana Andolan II* (the People's Movement of 2006) that forced the monarchy to step down. A Comprehensive Peace Agreement (CPA) was signed in November 2006. The peace process started with the task of writing a new Constitution; gradually it moved towards the integration of the former Maoist combatants. Federal restructuring of the State also became an integral part of this process.

This paper analyses the debate surrounding federal restructuring in Nepal and the position taken by various political stakeholders. The paper looks at various historical factors that have influenced this issue and discusses possible future scenarios. It concludes by arguing that an early political consensus on federalism is imperative; otherwise, the country may slip into greater ethnic conflict.

Historical Discrimination

While the political debate around federal restructuring is of recent origin, the issue has been articulated by the country's ethnic and regional activists for some time. The ethnic groups are not inclined to settle for just decentralisation of power; they want institutional reforms to guarantee proportional representation and a redefinition of Nepali identity based on inclusion—one that recognises the country's ethnic, cultural, and linguistic diversity. Across party lines, ethnic organisations are demanding that new provinces be carved out and localised majorities declared in these areas, with provinces being named accordingly. Moreover, some of these

groups, including the two majority ethnic affiliations, have demanded preferential rights to natural resources as well as *agradbikar* or priority entitlement to political leadership positions in the future provinces.¹ Their intent is to end the decades-old hegemony of the Hill Hindu elite, whom they accuse of discriminating against ethnic, caste, and religious groups, and dominating the socio-economic and political decision-making process in Nepal.

For centuries, Nepal was ruled by strict Hindu customs based on caste hierarchy. King Prithvi Narayan Shah of Gorkha, who unified modern Nepal, called Nepal 'the garden of four varnas and thirty-six jatis', as recorded in his *Dibya Upadesh*.² The four castes in this traditional social stratification were Brahmin, Kshatriya, Vaishya, and Sudra. (There are some ethnic indigenous groups which do not belong to this class system.)

In 1851, the Nepali civil code known as *Muluki Ain* was written by Prime Minister Jung Bahadur Rana after he returned from his Europe tour. It codified social practices that had been prevalent for several centuries in Nepal. Deeply-rooted traditional Hindu beliefs on avoidance and removal of sin, and classification of castes and communities were codified under the *Dharmasastra*. A traditional Hindu king was duty-bound to put these precepts into practice. The *Muluki Ain* divided Nepali citizens into two castes: "the caste whose water is allowed to remain pure" and "the caste whose water is defiled". The latter, the lower castes, were prohibited from engaging in various activities like entering temples, receiving education, listening to high-caste people's teachings, worshipping, or participating in fairs and festivals. They could be put to death for rebelling against caste rules. They were called 'untouchables' with no say in the country's economic, social, cultural and administrative affairs. This system prevailed until the *Muluki Ain* was revised in 1962.

The traditional social structure, however, continued to be discriminatory and perpetuated inequality and poverty. The Ranas, who ruled until 1950, kept the country in isolation—thereby further intensifying poverty and deprivation. Although the traditional civil code was revised in 1962, the national slogan was; “One king, one country and one language”. This insistence on uniformity in religion, language, and dress became more entrenched during the reign of King Mahendra (1955-1972), who encouraged assimilation of diverse groups into Nepali culture and language, especially from the southern plains. He also banned all political parties under the Panchayat system. This is how the Hill Hindu identity emerged as a dominant factor in Nepal.

The 1990 mass movement reinstated multi-party parliamentary democracy. However, it was mainly a compromise between the palace and the political forces; the monarchy gained unalterable status under the 1990 Constitution. While parliamentary democracy and constitutional monarchy may have become the cornerstones of Nepali polity, they excluded many sections from representation and most social issues remained either inadequately addressed by the State or even completely ignored. Even as a large number of non-governmental organisations mushroomed with support from donor agencies, the political actors failed to ensure socio-economic and political participation of the downtrodden and marginalised. The post-2005 scenario was, however, totally different. Women, dalits, janajatis, madhesis, and other marginalised sections began playing an active role by putting pressure and taking to the streets for their rights to be recognised.

Consequently, the Interim Constitution of 2007 was amended many times over to incorporate some of the key issues related to the ethnic/regional movements, including federalism and proportional representation. The 2007 Terai³ uprising further fuelled the debate on federalism. As a result, a

601-member Constituent Assembly (CA) was formed, which became the most representative body in the history of Nepali politics. With the formation of the CA, the character of the Nepali state was redefined. While the 1990 Constitution recognised Nepal as a unitary, Hindu monarchy with Nepali as the official language, the Interim Constitution of 2007 instituted some changes—including the recognition of all languages spoken in Nepal. Debates on 'inclusive democracy', 'transformation of armed conflict' and 'the idea of being a republic' became an integral part of the Nepali political discourse.

Failure of the Constituent Assembly

The Constituent Assembly, formed in April 2008 with the mandate to draft a constitution, failed to deliver and was dissolved on May 28, 2012. Prime Minister Baburam Bhattarai's cabinet took a decision to hold fresh elections for a new CA on November 22, 2012. But this move was scuttled due to strong opposition from, among others, the Madhesi Forum and because of widespread polarisation on ethnicity-based federalism.

There was a breakdown of political consensus on federalism, an issue that resulted in the People's Movement of 2006 and also formed the basis of the 12-point agreement. On the one hand, the Maoist-Madhesi coalition insisted on either a 10-state or 14-state model—recommended by the constitutional commission and committee, respectively—as the basis for federal restructuring. On the other hand, the opposition Nepali Congress (NC) and the CPN-UML stood firm on a re-division of the country based on ethnicity. These parties favoured promulgating the Constitution with an in-principle commitment to federalism, while leaving contentious issues like the number of states, their names and boundaries to be decided by Parliament.⁴

The CA was initially given two years to complete the task of drafting the new constitution. However, due to the failure of the political parties to promulgate the Constitution within stipulated time, the CA amended the Interim Constitution and extended the deadline for ratification—not once, but four times. After the collapse of consensus among the parties and a lull of over a year, Nepal Chief Justice Khil Raj Regmi was appointed as the Chairman of Nepal's Interim Election Council in March 2013. The council has been given the mandate to hold fresh CA elections due on November 19, 2013.

Current Administrative Structure of Nepal

Nepal is a landlocked country with a total area of 147,181 sq km and estimated population of 29 million. Hindus comprise 80.6 percent of the population; Buddhism and Islam are also practiced. The average life expectancy is 60 years; the percentage of population living below the poverty line is 30.1 percent.⁶ Major ethnic groups include Chhettri, Brahman-Hill, Magar, Tharu, Tamang, Newar, Kami and Yadav. The major languages spoken in the country are Nepali, Maithali, Bhojpuri, Tharu (Dagaura/Rana), Tamang, Newar, Magar and Awadhi.⁷ The average literacy rate is 54 percent.

Table 1: Population by Mother Tongue (in percent), 2001 #

Nepali	48.61
Awadhi	2.47
Maithili	12.30
Bantawa	1.63
Bhojpuri	7.53
Gurung	1.49
Tharu	5.86
Limbu	1.47
Tamang	5.19
Bajjika	1.05
Newar	3.63
Magar	3.39
Others	5.38

Table 2: Population by Religion (in percent), 2001 #

Hindu	80.62
Buddhism	10.74
Islam	4.20
Kirat	3.60
Christian	0.45
Others	0.39

Table 3: Population by Caste/Ethnic Group (in percent), 2001 #

Chhetri	15.80
Gurung	2.39
Brahman	12.74
Damai/Dholi	1.72
Magar	7.14
Limbu	1.58
Tharu	6.75
Thakuri	1.47
Tamang	5.64
Sarki	1.40
Newar	5.48
Teli	1.34
Muslim	4.27
Chamar, Harijan, Ram	1.19
Kami	3.94
Koiri	1.11
Yadav	3.94
Rai	2.79
Others	19.31

Department of Statistics, Government of Nepal

At present, there are five development regions in Nepal—eastern, central, western, mid-western and far-western—comprising 14 zones, 75 districts⁸ and 3,913 village development committees (VDCs). There are 205 parliamentary constituencies; a district usually comprises two or more constituencies.

The current 14-zone administrative structure has been contested by the ethnic groups and some political parties who claim that the set-up lacks clarity in terms of political and administrative hierarchy and merely replicates the older political system. The regional divisions between the

mountains in the north, the hill region across the centre, and the plains (Terai) stretching along the south and sharing border with India, have left the population scattered. The most dominant socio-cultural group is that of high-caste Hindus from the hills. The others include Hindus (dalit), ethnic groups (indigenous nationalities or adibasi janajatis), and madhesis (people of the plains, including both ethnic and caste groups). However, none of these groups form an overwhelming majority of the total population in a given area. The high-caste Hill Hindus comprise 30.89 percent of the population; Dalits, 15 percent and indigenous nationalities, 36.31 percent. Madhesis, including dalits and indigenous nationalities from Terai, form 32.29 percent of the population.

According to the census report of 2001, there are 103 caste/ethnic groups in Nepal. These groups stress on the concept of 'identity'—ethnic, caste, religious, linguistic and regional. The 2001 census recorded 93 languages spoken in the country and the practice of seven religions.

Beginning in 1990, the marginalised segments of society—adibasi janajatis, madhesis, and dalits—began asserting their identity. Earlier, 'ethnic inequality' was a subject rarely discussed or acknowledged. Since the birth of the modern Nepali state, the high-caste Hindus and Newars (the latter, although classified as indigenous nationalities, differ substantially from other groups both socially and economically due to their proximity to the ruling elite) benefited from land grants and their closeness to the palace.⁹ This inequality, furthermore, resulted in economic hardship for large sections of the population.

For instance, peasants suffered the heavy burden of paying land taxes. Moreover, historically, the people of the Terai as well as the low-caste Hindus from the hills and plains have had limited access to State resources and power. Other hill ethnic groups like the Gurungs, Magars, Rais, and

Limbus, benefited from their recruitment to the national army, the British Army in the 19th century or the Indian Army since India's independence.

High-caste Hill Hindus held the largest share of government and administrative positions: Brahmins, Chhetris, and Newars comprised 90 percent of the bureaucracy until 1973.¹⁰ These inequalities continued to persist even after the democratic reforms of the 1990s. The high-caste Hindus remained the dominant group in government, non-government, judiciary, civil service and civil society. During this decade, they held over 60 percent of the seats in the upper and lower houses of Parliament. As observed by analysts, there was “near total exclusion” of Dalits from these spheres. This was the natural fallout of the exclusionary nature of the State that functioned under the unitary structure and the first-past-the-post election system. The indigenous and marginalised groups thus remained dissatisfied with the 1990 Constitution, which continued to define Nepal as 'a Hindu nation with constitutional monarchy', with Nepali as the official language.

In the 1990s, the indigenous nationalities movement began to gather momentum and raise awareness of ethnic issues among the main political parties, NGOs, and the common people.¹¹ Gradually, the ethnic organisations became more vocal and proposed redefining the national identity through a new constitution and the restructuring of the state by establishing a federal system to enable ethnic autonomy, reservations for *janajatis* in government and other state-funded institutions, and curtailing the power of the upper-caste Hindu population. After 2006, the ethnic groups voiced their demands aggressively and demanded their due share in the socio-economic and political arenas of the State.

Position of Political Parties on Federalism

After the People's Movement of 1990, out of the 44 political parties registered with the Election Commission, only three demanded a federal State. The Nepal Rastriya Janajati Party demanded federalism based on ethnicity; Nepal Sadhbhawana Party (NSP), sought autonomy for the Terai region; and the Nepal Rastriya Janamukti Morcha pressed for administrative federalism. The Nepal Federation of Indigenous Nationalities (NEFIN) has been demanding the right to self-determination and ethnic autonomy since its establishment in 1990. The CPN-Maoist initially favoured semi-federalism but later took a radical stand and demanded ethnic federalism. Other major political parties, including the NC and the CPN-UML, included federalism in their manifestos, but did not clearly define their stand.

Nearly 25 political parties represented in the CA accepted the federal political system in principle; only the Rastriya Jana Morcha vehemently opposed it, arguing that the federal structure would weaken sovereignty and increase the risk of the country's disintegration. The Morcha contended that a federal model would promote communal disharmony and conflict. Moreover, the party maintained that ethnic federalism was not a 'home-driven' agenda but initiated by vested interests in India that "want to keep Nepal weak and unstable".

Some analysts and ethnic organisations (like the Chettri¹² Samaj National Federation) argue that federal restructuring will lead to further discrimination as the rules of different states would vary and, thereby, affect delivery of government services. Moreover, they argue that the federal model would be operationally expensive and unsustainable for Nepal.

Maoist Support for Ethnic Federalism

During the period of the People's War, the Maoists set up nine autonomous regions—six based on ethnicity and three on territoriality. The party's politburo also declared Kathmandu Valley as Newa Autonomous Region, after the majority ethnic group—the Newars.

The autonomous ethnic regions included: Kirat, Tamang Saling, Amuwan (Gurung), Newar, Magrat and Tharuwan.

The autonomous territorial regions included: Madhesh, Bheri-Karnali and Seti-Mahakali.

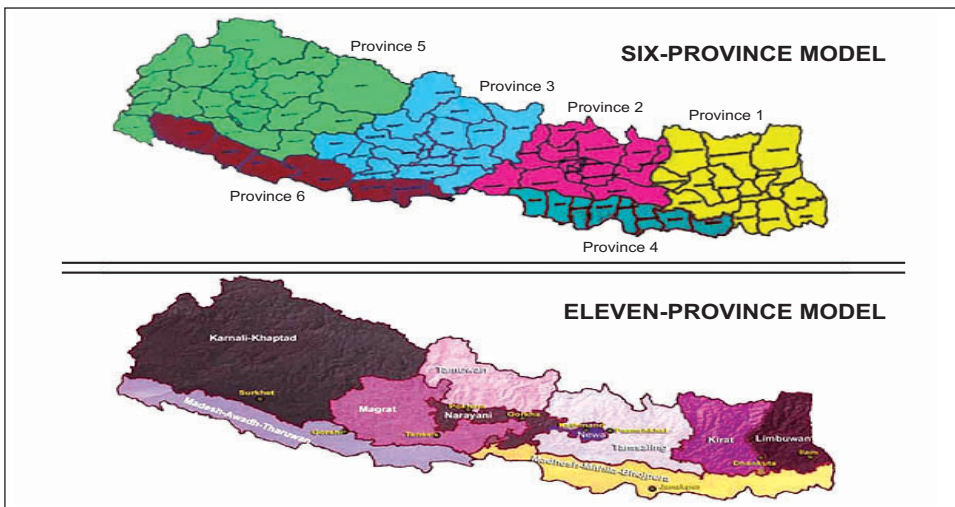
All decisions on matters relating to these regions were controlled by the party's politburo. In 2007, two more autonomous regions were added—Kochila and Limbhuwan—as well as three sub-regions—the Maithili, Bhojpuri, and Awadhi speaking regions in Terai. The Maoists' 'Roadmap on Nationalities and Regional Questions' outlines the functions of these autonomous regions. Excluded from their jurisdiction are the army, foreign relations, finance, currency measurement, communication, international trade, would be large-scale industries and big hydropower projects.

After the signing of the CPA and, significantly, following the Madhesh uprising, the United CPN (Maoists) supported the 14-state model (Figure 1) proposed by the State Restructuring and Distribution of State Power Committee of the CA. Later, the party agreed to support the 11-province model also proposed by the State Restructuring Committee.

Figure 1: CA Committee's 14-state model, 2010



Figure 2: Six-province model and eleven-province model as suggested by the State Restructuring Commission in 2011



On February 1, 2012, the State Restructuring Commission of Nepal submitted two reports as it could not arrive at a consensus. The majority of the members recommended the establishment of 11 states. The second proposal outlined a six-state formula. The panel comprised representatives from different political parties and, hence, there were sharp differences. The majority report recommended the formation of the following provinces:

- Karnali-Khaptad
- Madhes-Abadh-Tharuwan
- Magrat
- Tamuwan
- Narayani
- Newar
- Kirat
- Limbuwan
- Madhes-Mithila-Bhojpura and,
- one non-territorial Dalit state

This report also recommended that priority rights should be given to the dominant ethnic group in each region. The report prepared by the dissenting panel members proposed division of the country into six provinces, including two in the plains and four in the hills and mountains on the basis of economic viability (Figure 2). It also advocated for residual power to be vested with the Centre; the majority group wanted the issue to be resolved by either the Centre or State depending on the origin of the problem.

Two significant developments in 2012 weakened the Maoist position. The first was the split in the party that resulted in the hardline faction, led by Mohan Baidya Kiran, walking out to form a new party, the Communist Party of Nepal-Maoist. The split weakened Chairman Prachanda's position as mass leader and that of the party, as major stalwarts of the Maoist Movement joined hands with Baidya. The hardliners even submitted a memorandum with a list of 70 demands to the Government in September 2012, similar to the list of 40 demands¹³ submitted by Baburam Bhattarai to then Prime Minister Sher Bahadur Deuba in 1996 before the launch of the “People's War”. The second setback was the formation of a

new janajati party, the Sanghiya Samajwadi Party-Nepal, which is now seen as espousing the cause of the janajati movement.

The NC and UML Stand

The 11-state model proposed by the majority of the State Restructuring Committee members was immediately turned down by the Nepali Congress (NC) and Communist Party of Nepal Unified Marxist Leninist (CPN). Both parties are firmly against any ethnic division of Nepal. Many senior NC leaders saw the process as being detrimental to the national interest, one that would lead to disintegration of the country. The constitution-drafting process, in their view, had turned into nothing more than a frenzied contest to secure special privileges for one's own community.

Despite strong sentiments against ethnic federalism from within the parties, the NC and UML leaders agreed in 2012 to opt for the 11-province model. On May 15, 2012, an agreement was signed between Unified CPN (Maoist), NC, and CPN-UML stating there would be 11 provinces in a future federal setup; the names of the provinces and boundaries were to be decided at a later date. The agreement, however, lost its validity after marginalised communities staged protests claiming that they would be reduced to a minority in all the provinces. Even Maoist Chairman Pushpa Kamal Dahal (Prachanda) declared that there was a “need to revise the number of provinces”.¹⁴ Many believe his position was borne out of fear of upsetting his ethnic vote bank.

There are many voices emerging from both NC and UML on the issue of federalism. While the group led by UML Chairman and former Prime Minister Jhala Nath Khanal is leaning towards the Maoist-Madhesi-Janajati demand, the faction headed by veteran Communist leaders C.P. Oli and

former Prime Minister Madhav Kumar Nepal is against the ethnic division of the State. The Oli faction advocates more decentralisation and strengthening of the local bodies to increase participation of the marginalised sections of the population.¹⁵ CPN-UML Vice-Chairman Bidya Devi Bhandari has said that the party would not accept ethnic federalism with special rights for ethnic groups. She went on to state that the country would plunge into ethnic war if the concerned authority failed to act on time."¹⁶

The Madhesi Perspective

Madhesis are the non-Nepali speaking people who reside in the Terai or Madhesh region in the southernmost slopes of Nepal adjoining the Indian states of Bihar, Uttar Pradesh, West Bengal, and Uttaranchal. They speak Maithali, Bhojpuri, Awadhi, Tharu, Hindi, Urdu, and other local dialects. Many of their social customs are similar to those of the people of Bihar and UP. According to the 2001 census report, out of 103 castes/ethnic groups in Nepal, 54 belong to Madhesh. But many Madhesi scholars contest this data, arguing that census reports are easily 'manipulated' by the State. The scholars point out that while the census report stated that the Muslim population was 4.27 percent, it recorded that the Urdu-speaking population was only 0.77 per cent. They also noted that the report showed smaller populations of Madhesis and tribals in spite of the fact that they comprise 36 and 29 percent of the population, respectively.¹⁷ Madhesi activists claim that their population is actually around 50 percent of the total population of Nepal.¹⁸

The main grouse of the people of the Terai is that they have been historically and systematically kept out of the country's political process in order to protect the interests of the ruling elite (namely, the hill Hindus). Citizenship acts and land reform schemes of the State, they claim, are

discriminatory and have adversely affected Madhesis. The main demand of the Madhesi people is the recognition of their distinct identity—their language and culture. They also want proportional representation in the state institutional structures. Regional autonomy or a federal system, according to them, would end decades of prejudices against them by ensuring that they get rightful control over their resources.

The 2007 Constitution was silent about federalism. This silence fuelled the Madhesi Uprising, also called the Terai *Andolan*. The uprising lasted for three weeks (January 16 to February 8, 2007) and resulted in the death of 39 people. It forced the government of Nepal, then led by NC's G P Koirala, to amend the Interim Constitution and add the provisions pertaining to federalism. The 22-point agreement signed between the Government of Nepal and the Madhes Janadhikar Forum (MJF) in August 2007 further boosted the movement. Article 6 of the agreement specifically states that Nepal would be a federal republic.

A year later, three groups—MJF, Terai Madhesh Loktantrik Party (TMLP) and Sadbhawana Party—came together to form the United Democratic Madhesi Front (UDMF). The UDMF's goal is to transform the Terai into a single autonomous province of Madhes. Some of the core demands of the Madhesi faction are: autonomy for the Terai region; recognition of Hindi as a national language; and adequate representation in the civil services and security agencies.

As a result of the movement, the Madhesi political parties scored significantly in the CA polls. The MJF and TMLP ultimately became the fourth and fifth largest political parties in the CA. Out of 54 political parties that contested under the proportional representation system, MJF received 678,327 votes while the TMLP got 338,930 votes.

However, soon after the CA polls, the Madhesi movement lost momentum due to widespread divisions amongst the Terai parties. Beginning with three, today there are more than 15 Madhesi parties that claim to represent the cause of Terai. This has significantly weakened their position.

Position of Ethnic Parties

Both Madhesi and other ethnic groups have demanded that federal restructuring be based on the report of either the Subject Committee of the CA, which recommended 14 provinces, or the report of the State Restructuring Commission (which suggested 11 states). Madhesi parties remain opposed to the idea of slicing the Terai plains into five provinces, as the bigger parties (like NC) have proposed.

Ethnic groups and other minority organisations have united with a common voice and have been pressing for more autonomy with right to self-determination. Many among them have demanded *agrabhikar*—a preferential treatment for political leadership.

The Nepal Federation of Indigenous Nationalities (NEFIN), which was formed in 1991 as an autonomous and politically non-partisan national umbrella organisation of indigenous peoples and nationalities, is at the forefront of this struggle for identity. NEFIN currently consists of 48 indigenous member organisations spread across Nepal. NEFIN is also a member of the United Nations Working Group on Indigenous Populations. The adivasi/janajati (indigenous peoples) consist of 37.2 percent of the total population. Only 14 percent of the indigenous peoples are in the civil service. The majority of the 13,000 people killed during the 10 years of the Maoist Movement were indigenous peoples. NEFIN has demanded an inclusive federal structure for recognition of

their rights and distinct identity, threatening to resort to arms¹⁹ if the State is not restructured along ethnic lines. NEFIN officials have threatened to launch a separate political ethnic outfit and run a parallel government if their demand is not addressed in the new statute.

Limbuwans (Limbu indigenous group) and Khumbhuwans (Rais from the Hills) are also leading their respective movements, demanding recognition of their identity and right to self-determination.

New Alliances

Ending a long period of speculation over an 'alternative political force', *janajati* leaders on November 22, 2012 announced the formation of a new party—the Sanghiya Samajwadi Party-Nepal—led by *janajati* leaders who had resigned from the major political parties. The party's official flag and manifesto were made public at a function attended by over 1,000 party leaders and cadres in Kathmandu. The party, which serves as a common platform for pro-federal and ethnic forces, announced a 98-member ad hoc committee under the chairmanship of former CPN-UML Vice-Chairman Ashok Rai.

Soon after the dissolution of the CA, Prachanda announced a new federal alliance—the United CPN-Maoist-led FDRA (Federal Democratic Republican Alliance) of 21 political parties in August 2012. Following this, Baidya announced an alliance with seven other fringe Left parties to push their demand for leadership of the next government. Baidya's Federal Republican Front is headed by CPN-Maoist Vice-Chairman C.P. Gajurel and includes parties like the Revolutionary Communist Party of Nepal, CPN-Unified, Tamsaling Nepal Rastriya Dal, Nepal Nagarik Party, Tharu Mukti Party, and Janamukti Party.

Inclusion

As stated earlier, the Maoist insurgency in Nepal was the manifestation of deep-rooted problems in the country, including poverty; inequalities; political oppression; social and political exclusion; gender, caste, and ethnic-based discrimination; skewed distribution of resources of production; and corruption. Needless to say, successive governments failed to address these problems, thereby giving an impetus to the armed conflict in the country. Further contributing to the conflict were factors like Nepal's feudal legacy, political instability, and feelings of injustice and frustration.

The concentration of control over the country's natural and power resources at the Centre—and the consequent exclusion of the peripheries from the benefits of these resources—has been a key characteristic of Nepali society. Therefore, it is generally perceived that a federal government system would address the problems associated with the distribution of power and resources, recognising and respecting diversity, thus reducing conflict.²⁰

Potential Sources of Conflict

Nepal's leading politicians need to look seriously at the key components of the future federal model. The rights of the minorities and the marginalised must be upheld: failure to do so could potentially lead to more violent protests. The issue of sharing fiscal power and resources is of utmost importance. The absence of appropriate mechanisms on distribution of fiscal power could also create conflict.²¹ The constitution must clearly delineate the jurisdiction of the states and the Centre, and the states and local governing units. Dispute resolution mechanisms must also be in place to deal with any ambiguities. In a multicultural country like Nepal, it

is important that the constitution recognise all mother tongues. This exercise would be all the more difficult as there are 93 dialects spoken in Nepal.

The pitfalls of ethnic federalism

If one looks at the ethnic demography of Nepal, no group is dominant in any given (or proposed) province. No group has a decisive demographic advantage in the proposed provinces. For instance, Limbus will account for only 27.4 percent of the population in the proposed Limbuwan province. The population of Rais, Tamangs, Newars, Gurungs and Magars in Kirat, Tamsaling, Tamuwan, Newa, and Magarat provinces, respectively, hovers around 33 to 35 percent. The presence of Hill Bramin-Chhetri-Thakuri-Dasnami groups will be almost equal or even higher in these provinces.

Thus, there is no majority ethnic community in Nepal; each minority group is dominant in some other parts, and many have social and economic relationships and shared cultures with other groups. For example, about half of the population of Newars and Rais live outside Newa and Kirat Pradesh; 66 percent of the Magars and 63 percent of Tharus live in areas other than the provinces named after them. This trend illustrates a key characteristic of the Nepali population: it is geographically scattered and migratory. Consequently, it would become difficult to identify one federal province with one particular ethnic group. Even at the VDC level, not more than 50 percent of the units would have a majority population of one ethnicity.²²

Identity is best recognised at the local level through decentralisation and devolution of power, which will collectively empower all ethnic groups—even those who may be small in number at macro and provincial levels.

Newars, Magars, and Rais, who reside largely outside the provinces named after them, can live with communal harmony in other regions as well. The Dalit community, which represents the most discriminated community and is scattered across the country, could also get recognition and empowerment in the respective localities.²³

Conclusion

Given the extreme positions being taken by Nepal's leading politicians on the issue of federalism—and on what basis it is to be executed—the restructuring process has come to a virtual standstill. Everyone agrees that the issue is integral to the struggle for the formation of a new Nepal and is thus at the heart of the peace-building process that began in 2005. Unfortunately, there seems to be no agreement so far on the matter.

The decade-long Maoist People's War, which aimed to overthrow the monarchy and establish a people's democratic republic, drew much of its strength from the ethnic communities. The movement strongly propagated the formation of nine autonomous states. After the Madhesh Andolan, federalism was accepted by all political parties except the Samyukta Jana Morcha. It was generally believed that federal restructuring would end the inequity that has been prevalent in Nepali society for centuries, and thereby usher in a more inclusive polity. The new republic would be based on secularism, pluralistic democracy, and freedom. The political parties however, disagree on what shape the federal structure should take. While the Maoists-janajatis and Madhesi factions continue to espouse ethnic identity-based federalism, the NC and UML want only five provinces to be constituted, or at the most seven.

The CA was expected to settle all contentious issues with regard to state restructuring. Unfortunately, however, after four extensions the CA was

dissolved on May 27, 2012 without having fulfilled its mandate. The issue of state restructuring has been stalled. The root of the problem was in the delay caused in addressing this issue right at the beginning of the peace process and signing of the CPA. Soon after the CPA was formalised, Nepali politicians and academics narrowed the debate on the peace process to the integration of the former Maoist combatants into the Nepal Army.

While the NC and the more conservative forces within UML gave priority to the conclusion of the peace process over writing of the new constitution, the federal debate was relegated to the back-burner. It was only after the Madhesh uprising, particularly since the 2012, that federalism gained prominence. Unfortunately, Nepali politics and the society at large are deeply polarised over the restructuring issue. The same parties which were hailed for successfully holding the CA elections now stand discredited for their inability to forge an understanding on federalism.

A new alliance—of Maoists, Madhesis and the Janajatis—has emerged to strengthen the federal agenda. Although the immediate goals of the alliance, as stated by Prachanda, are to forge a national reconciliation on federalism and end the current deadlock, it is a strategic partnership aimed at isolating those parties and groups which are against identity-based federal restructuring. The opposition is, thus, faced with a dilemma: it can neither endorse a total ethnic agenda nor form an anti-federal group, which would be perceived as being contrary to popular will. Entrenched positions and lack of reaching a consensus among the political parties means that the federalism debate will continue to fester in the near future.

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Endnotes:

1. International Crisis Group, "Nepal: Identity Politics and Federalism", Report N 199, 13 January 2011.
2. In addition to the unification of Nepal, King Prithivi Narayan Shah is credited for laying down the guiding principles of governance, nationalism, and foreign policy. In *Divya Upadesh* he laid out nine principles that formed the core of Nepali political and national life.
3. Terai or Madhesh is the lowland plains in the southern slopes of Nepal bordering with the Indian states of Bihar, Uttar Pradesh, West Bengal and Uttaranchal. It includes Terai and the inner-Terai. The dividing line between the Hill region and Terai is the foothills of the Chure hill. Madhesis are the non-Nepali speaking people who live in the Terai. They speak Maithili, Bhojpuri, Awadhi, Tharu, Hindi, Urdu and other local dialects. In many aspects, the dress and culture of the people of Terai are similar to those of the people of Bihar and UP.
4. For details see Prashant Jha, "Nepal's CA fails to write constitution", *The Hindu*, May 28, 2012.
5. Read Sundar "Khanal SC strikes down CA extension bill", *Republica*, May 25, 2011, and Ananta Raj Luitel, SC rejects twin petitions to review Nov 25 verdict, *The Himalayan Times*, 27 December, 2011
6. U.S. Central Intelligence Agency, World Factbook 2008; The World Bank 2006
7. See table 1 and 2
8. See Nepal district map 1

9. Susan Hangen "Creating a "New Nepal": The Ethnic Dimension", *Policy Studies* 34, 2007
10. ibid
11. For detail on exclusion and indigenous nationalities movement see Mahendra Lawoti, "Towards a Democratic Nepal: Inclusive Political Institutions for a Multicultural Society", (Sage Publications India, 2005)
12. Chhetri refers to Kshatriyas from the hills of Nepal. They form Nepal's largest caste group at 15.5% of the population and are overwhelmingly Hindu. The Chhetri Thakuri subcaste ruled Nepal since Prithvi Narayan Shah founded the modern Nepali state in 1769.
13. "CPN-M submits 70-point demand to PM", *Republica*, September 10, 2012
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20. Bishnu Raj Upreti, "Federalism in Nepal: Conflict and Potential for its Resolution", NCCR North-South Paper series 31

21. *ibid*
22. Arun Srivastava, "The Political Crisis in Nepal", *Global Research*, June 19, 2012
23. ORF interview with Dr Ram Saran Mahat, senior Nepali Congress leader and member of NC Central Committee, 24 August 2012

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Observer Research Foundation
20, Rouse Avenue, New Delhi-110 002
Email: orf@orfonline.org
Phone: +91-11-43520020 Fax: +91-11-43520003
www.orfonline.org