

*Diagnostic Study of Local Governance in
Federal Nepal
2017*

स्थानीय सरकार सबलीकरण



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ABBREVIATIONS

APMs	All Party Mechanisms
CA	Constituent Assembly
DCC	District Coordination Committee
DDC	District Development Committee
DRCN	Democracy Resource Center Nepal
EO	Executive Officer
FGD	Focus Group Discussion
LG	Local Government
LGOA	Local Government Operation Act 2017
LLRC	Local Level Restructuring Commission
LSGA	Local Self-Governance Act
MoFALD	Ministry of Federal Affairs and Local Development
MoFAGA	Ministry of Federal Affairs and General Administration
NNRFC	National Natural Resources and Fiscal Commission
O&M	Organization and Management
VDC	Village Development Committee

CHAPTER 1 INTRODUCTION

On September 20, 2015, the people of Nepal embarked upon a yet another chapter in their governance history. After years of prolonged negotiation, a political compromise was reached between the major political parties and the Constituent Assembly of Nepal approved the country's new constitution. The *Constitution of Nepal 2015* (the '*Constitution*') establishes a federal government structure with the vision of establishing strong local governments (LGs), which are vested with greater authority. In comparison to the 1990 constitution, the new Constitution also introduces measures for greater inclusion of women and Dalits among the marginalized communities within LGs.

Though the history of local government in Nepal goes back seven decades and includes six previous constitutions, the current restructuring of the government has been referred to as a 'radical' experiment. Political leaders promoted the transition from a unitary to a federal structure of governance largely on the basis that 'shared rule' between the national, provincial and local levels of government, would allow elected leaders to better address inequality and discrimination – hence bringing greater stability to the country.

Nepal is now divided into seven provinces, and is further sub-divided into 293 urban municipalities and 460 rural municipalities. The newly established municipalities are overall larger in size, vested with greater authority, and shoulder the responsibility to uphold a promise to the people of Nepal. The local level elections were undertaken in three phases from May to September 2017, and provincial elections were held in November and December 2017. Both the constitutional provisions and the newly elected leadership have promised a lot to the people. Public expectations have been raised through campaign promises, and the people believe that they will now receive services that they expect through the local government that resides 'at their doorstep'.

As the country embarks on this ambitious project, it is essential to assess the context in which LGs are being formed and the challenges in seeing through the commitments of the *Constitution* to the people of Nepal. This study is the first step in this direction. At this early stage, this study attempts to assess the extent to which the institutional, legal, political, and fiscal frameworks are in place and the critical issues that must be addressed in establishing these frameworks to enable local governments to discharge their constitutional mandates. The study examines the key challenges that the local governments are currently facing in this early phase of the transition and draws out a set of indicators to assess on an ongoing basis in the coming years that will provide insight into the progress being made as the transition to federalism unfolds. Finally, the study raises questions about the extent to which local governments are facilitating an inclusive environment and meeting their objectives for service delivery and provision of infrastructure, both looking at the current situation and suggesting the critical issues to track going forward.

1.1 THE PROMISED PATH OF FEDERALISM

Local governance in Nepal dates back to the third century to the long-standing tradition of community governance, popularly known as the *panchayat*. Formal institutionalization of *panchayats* into the political system began in the 1950s after the introduction of democracy.

However, the people of Nepal have faced repeated changes of government and the withdrawal of LG since that time. The current moment marks a new beginning and provides hope that a path towards decentralization can be renewed.

In 1960, King Mahendra overthrew the first democratically elected government, and, in 1961, he set up a "National Guidance" system based on local *panchayats* led directly by the king. Under his regime, the Panchayats were a party-less system created to provide a semblance of decentralization. Efforts were made to empower the Panchayats through decentralization of power.¹

A return to strengthening LG took shape again with the restoration of democracy in 1990. Local Panchayats were renamed as Village Development Committees (VDC) and Municipalities, with District Development Committees (DDC) providing an intermediate layer of governance, and periodic elections were held in 1992 and 1997. The national parliament enacted the Local Self-Governance Act (LSGA) in 1999, which vested more power and authority to LGs and provided for higher representation of women in local elected bodies. This represented a landmark development towards decentralized governance in Nepal. The Act provided a strong basis for grassroots democracy while ensuring devolution of power, participatory planning processes, community and private sector involvement, accountability, and public service delivery.²

However, during the Maoist insurgency (1996-2006), the locally elected bodies faced serious violent threats; local political workers, including elected representatives, were major targets.³ The tenure of elected authorities ended in 2002 with the derailment of democracy due to the monarchy reasserting direct rule combined with the Maoist insurgency. Elections could no longer be held, and instead, the Maoists declared a parallel government in their stronghold areas.⁴ A political vacuum prevailed for more than 15 years and the violent conflict seriously affected the local governance system resulting in the withdrawal of most of the government institutions, including the staff of VDC, health centres and banks from the remote rural areas, with re-location to district headquarters or relatively safer urban centres.

From 2002 there were several attempts to bridge the gap with such makeshift arrangements like politically nominated authorities, all party mechanism or deputing authority to civil service personnel. In November 2005, the leaders of the seven political parties in the dissolved parliament signed a 12-point agreement with the Maoists and jointly led the mass protest that forced the king to step down and reinstate parliament. The reinstated House of Representatives adopted a declaration stripping the King of all powers granted to him by the *Constitution of Nepal 1990*, and committed to elect a Constituent Assembly (CA) to write a new constitution. The new government also began negotiations with the Maoists, which culminated in the signing of the Comprehensive Peace Accord in November 2006. After the peace process in 2006 a renewed focus was given, both from the Government of Nepal and the international development partners, to engage the development of local governance institutions.

This was followed by the promulgation of the *Interim Constitution of Nepal 2007*. In the Constituent Assembly election held in 2008, the Communist Party of Nepal (Maoist) emerged

¹ Shrestha (1999).

² The Government of Nepal (2013).

³ Thapa and Sijapati (2003).

⁴ Khanal (2006).

as the largest party. Following the election, an amendment to the *Interim Constitution* ended monarchy in Nepal and committed to transform the unitary state into a federal republic. The *Interim Constitution* committed to a “progressive restructuring of the State with inclusive, democratic federal system by doing away with the centralized and unitary structure of the State to end discriminations based on class, caste, language, gender, culture, religion and region.”⁵ There were four governments in the four years after the election, while the promised new constitution, originally due by May 2010, was only approved in September 2015.

In 2017, after a gap of 15 years, the Nepali people have finally elected local representatives with high expectations and hopes for the future. During the elections, campaign promises included the popular slogan ‘*singha darbarko adhikar gaun-thaunma*’ (power enjoyed by the central government now devolves to LG). However, many questions arise about how the new governance structure will be shaped and whether the local governments will truly be vested with the power to exercise the authorities, legislative power in particular, vested with them (see Box 1).

BOX 1: Local Government Challenges, Sahidbhumi

It is said that a lot of power, enjoyed by Singhadarbar [representative of the central government], is now devolved to the LG. This leads to intensify people’s expectation from the LG. But there are many pertinent questions and challenges. Do elected leaders have capacity to enjoy such a vast amount of power, law-making power in particular? Do we have sufficient administrative personnel to absorb extended jurisdictions? Do we have minimum financial capacity to stand as an autonomous body? Do we have laws to back up the elected leaders to perform independently? Meanwhile, I see a lot of constraints though I am optimistic for future.

Manoj Rai
Chairperson
Sahidbhumi Rural Municipality
25 August 2017

1.2 FRAMEWORK FOR THE FUTURE

Finally, in 2017, two years after the promulgation of the constitution and 20 years since the last local elections, Nepal has held local government elections. The elections, which took place in May, June and September 2017, ended the political vacuum in local governance and mark the beginning of a new governance system that many hope will finally bring stability, adequate services, and economic opportunities throughout Nepal.

In Nepal, the optimism vested in federalism as a foundation for establishing stability and improving the delivery of services must be understood with caution. Despite the strength of normative arguments supporting strengthening local governments, including generating broader participation in governance, greater attention to and investment in relevant local development initiatives, and increasing political accountability; the motivations for implementing supporting policies are inherently political in nature. In other words, the motivation to governance reform depends largely on political incentives, and this context is critical in determining how policies will be implemented. As Patrick Heller states, “Across the political spectrum, the disenchantment with centralized and bureaucratic states has made the

⁵ The *Interim Constitution of Nepal 2007*, art 138 (including the First Amendment).

call for decentralization an article of faith. Strengthening and empowering local government has been justified not only on the grounds of increasing accountability and participation. But to govern is to exercise power, and there are no a priori reasons why more localized forms of governance are more democratic.”⁶

Furthermore, the strength and efficacy of sub-national governance institutions will depend primarily on the relationship between the sub-national institutions and national government players. Many people assume that because the government is closer to the governed, it will be more knowledgeable and more responsive to needs of people. However, as Crook and Sverrisson assert, “Different governments have different political purposes and motives for introducing decentralization reforms. These intentions are embodied in the details of the structure and form of the decentralization scheme or, more subtly, are revealed only in the way in which the system functions after it is introduced.”⁷ It is within this context that this report attempts to understand the path towards shared rule in Nepal from the beginning of the reform efforts.

The *Constitution* lays out a vision for a federal state comprised of three tiers of government: federal, provincial, and local. While the history of local government in Nepal goes back seven decades, the new arrangement provides a radical change in terms of size (territorially, the units are much larger), power (they are established as constitutional bodies) and functions (they are given exclusive judicial, legislative and executive functions). However, the transformation of Nepal from a unitary to a federal state will require much more than a new constitution and the related laws and policies. A key factor in the unsustainability of the previous constitutions has been a sense of alienation, and a lack of ownership and inclusion. The new *Constitution* takes this into account with specific provisions for including women and other marginalized groups in all levels of government.

1.3 LOCAL GOVERNMENT STRUCTURE

One major change in the structure of local governance under the new framework is that the jurisdictions of the LGs are much larger in both area and population. On March 15, 2016, the Government of Nepal established the Commission for Restructuring of Village, Municipalities, and Special, Protected and Autonomous Areas. The Commission commonly known as Local Level Restructuring Commission (LLRC) was tasked to determine the number and boundaries of local governments under the new governance structure, with a one-year mandate.⁸

Under the LLRC, the new structure of local government was determined, and 753 local governments units have been established within the seven provinces (see Figure 1). The 753 LGs represent a drastic reduction from the earlier structure of 3,157 VDCs and 217 municipalities and are comprised of 6 Metropolitan Cities (*Mahanagarपालिका*), 11 Sub-metropolitan Cities (*Upamahanagarपालिका*), 276 Municipalities (*Nagarपालिका*) and 460 Rural Municipalities (*Gaunपालिका*). Consequently, the new LGs are responsible for much larger territories and are mandated with much greater responsibility. The logic behind this shift, as stated by the LLRC and propagated by national political parties and media, include: (a) bringing democracy to the doorstep of the citizens; (b) vesting more power and responsibility in local government; and (c) making the local government the focal point for service delivery

⁶ Heller (2001) p. 132.

⁷ Crook and Sverrisson (2003) p. 234.

⁸ The LLRC was empowered under *Constitution*, art 295(3).

and economic development. However, this introduces the challenge of meeting the demands of the newly incorporated rural wards alongside the denser urban wards.

In formulating the new jurisdictions, the LLRC formed District-level Technical Committees to provide restructuring proposals and accelerate the restructuring process. The Technical Committees were responsible for conducting public consultations with stakeholders at the district and local levels in the development of their proposals. A study conducted by the Democracy Resource Center Nepal (DRCN) found that there were concerns about the technical capacity on many committees and that the work completed by the committees varied significantly between districts.⁹

DRCN’s study found that the level of information available and awareness about the restructuring process was low among constituents and that public involvement in the consultation process was minimal. As such, ultimately, it will be critical to monitor satisfaction across the country with the new administrative units as the governments take offices and deliver services.

FIGURE 1: Administrative Division of Nepal

Administrative Division	Earlier	Now
Development Region	5	-
Province	-	7
Zone	14	-
District	75	77 ¹⁰
Metropolitan City	1	6
Sub-Metropolitan City	12	11
Municipality	217	276
Village Development Committees / Rural Municipality	3,157	460

The Nepali people elected 35,041¹¹ representatives to the newly formed LGs. Under the new *Constitution*, LGs will for the first time in Nepal’s history, exercise executive, legislative as well as judicial powers. A Mayor and Deputy Mayor (in the case of Municipalities) and a Chairperson and Vice Chairperson (in the case of Rural Municipalities) head the new local governments. Local units are further subdivided into wards,¹² which are represented by a Ward Chairperson and four Ward Members.¹³ Out of the four ward members two must be women and one of the two women must be a Dalit. All of the locally elected representatives comprise the Village or Municipality Assemblies, which have local legislative power.

Local executive power is vested in the Rural Municipal or Municipal Executive. The Rural Municipal Executive is comprised of the Chairperson and Vice Chairperson, the Rural

⁹ DRCN (2016)

¹⁰ Following the administrative division of the seven provinces in the new federal setup, the two districts were further divided increasing the number of districts from 75 to 77. The two districts named Nawalparasi and Rukum were divided into Nawalparasi (West of Bardaghat Susta) and Nawalparasi (East of Bardaghat Susta) and East Rukum and West Rukum respectively.

¹¹ Election Commission of Nepal, 2018. Available at: <http://result.election.gov.np/>

¹² Rural Municipalities have between five and of twenty-one wards while Municipalities have between nine and thirty-five wards. *Local Government Operation Act 2017*, s 5(2).

¹³ The *Constitution of Nepal 2015*, Arts 222(2), 223(3).

Municipality's Ward Chairpersons as well as four women members elected among the Rural Municipal Assembly.¹⁴ The Municipal Executive includes the Mayor and Deputy Mayor, Ward Chairpersons as well as five women members elected among the Municipal Assembly.¹⁵ Similarly, two Dalit or minority community members in village executive and three members in municipal executive are being elected by the respective assembly members from the list of the voters who are eligible for candidacy. The local executive bodies share power through a division of work, particularly in nominating the conveners of the thematic committees.¹⁶

The *Constitution* also empowers the LG with semi-judicial powers for settling various disputes at the local level. The Deputy Mayor or Vice Chairperson of the local unit serves as the coordinator of the judicial committee. The judicial committees can settle cases related to boundaries, distribution of water, unpaid wages, rent, damage to crops, and a number of other matters.¹⁷ In addition, Deputy Mayor or Vice Chairperson also serves as the coordinator of Revenue Determination Committee.

Each of the country's 77¹⁸ districts have a District Assembly comprises of the Mayors, Deputy Mayors, Chairpersons and Vice Chairpersons collectively form the District Assembly. The District Assembly elects a District Coordination Committee (DCC) as an Executive branch at the district level. The DCC is comprised of a maximum of nine members chosen from among members of Municipal or Rural Municipal Assemblies, and include a Head, Deputy Head, at least 3 women and at least one person from the Dalit or minority community.¹⁹

The *Constitution* guides the functional responsibilities of each level of government with 22 exclusive functions assigned to local government including management of local services, local development projects and programs, basic and secondary education, basic health and sanitation, and local economic development.²⁰ Issues not listed among the federal, provincial, or local level or concurrent power lists are assigned as federal powers and functions.²¹

1.3 RESEARCH QUESTIONS

Given the complex context as Nepal embarks on this fresh experiment in local governance, it is important not only to track the evolution of the new system, but also to examine the attitudes and behaviour of key actors and stakeholders in local governance. Therefore, this study seeks to understand the key indicators that will help to assess whether the trajectory of the transition is leading to a functional and effective local governance system in Nepal. This inquiry examines the current situation with a view to identifying the issues to pay attention as the new government structure comes into place.

¹⁴ The *Constitution of Nepal 2015*, Art 215(4).

¹⁵ The *Constitution of Nepal 2015*, Art 216(4)

¹⁶ Each of the seven LGs studied had at least six thematic committees: (1) infrastructure building; (2) social development; (3) economic development; (4) governance; (5) environment; and (6) institutional development.

¹⁷ See *Local Government Operation Act 2017*, s 47.

¹⁸ After the administrative division into seven provinces, Nawalparasi and Rukum were divided into Nawalparasi (West of Bardaghat Susta) and Nawalparasi and (East of Bardaghat Susta) Rukum (Eastern Part) and Rukum (Western Part) respectively.

¹⁹ The *Constitution of Nepal 2015*, Art. 220.

²⁰ See The *Constitution of Nepal 2015*, sch 8.

²¹ The *Constitution of Nepal 2015*, Art. 58.

This report outlines a number of critical questions regarding the framework for local governance, assesses the current situation in view of these questions, and defines a set of parameters to track in the unfolding transition to federalism over the coming years. The ongoing assessment of a set of identified parameters will shed light on whether the trajectory of the ongoing transition is enabling and empowering local government in the spirit of the new *Constitution*, including shared power with strong and autonomous local governments acting as equals with the provincial and central government. The overarching questions that we seek to address is:

1. *Are the institutional, legal, political, and fiscal frameworks in place to enable local governments to discharge their constitutional mandates?*
2. *Are local governments facilitating an inclusive environment and meeting their objectives for service delivery and provision of infrastructure?*

In order to understand this, we look more specifically at a number of issues that are critical during this early stage of the transition. Over time, these questions and the parameters will require adjustment as the new government structure takes shape. The questions relevant at this stage include the following:

1. *What are the institutional and bureaucratic constraints that hinder local governments from meeting their mandates?*
2. *What are the legal barriers to effective local governance?*
3. *Is the political environment supportive for locally elected officials to debate and contest laws that impede local government interest?*
4. *Is inclusiveness of women and minorities, as mandated in the Constitution, being adequately addressed by local government?*
5. *Do the local governments have adequate financial resources to meet their development and service delivery mandates?*
6. *Are local governments able to continue to provide and improve services and develop infrastructure?*

1.4 RESEARCH METHODS

The *Diagnostic Study of Local Governance in Federal Nepal* draws upon primary and secondary data to evaluate the critical challenges local governments face and suggests a set of indicators to continue to monitor over the next few years, as the government takes shape. Primary data is based on quantitative and qualitative data collected from seven LGs in Nepal, including a survey, focus group discussions, and in-depth interviews carried out over three months from August - November 2017. The locations included in this study are described in Figure 3 below, further details are provided in Annex 1.

FIGURE 2: Characteristics of the Locations Included in this Study

Local Government	District	Province	Referred to in this report:	Characteristics
Khalsa Chintang Sahidbhumi Rural Municipality	Dhankuta	One	Sahidbhumi	Newly established
Janakpur Sub-Metropolitan City	Dhanusa	Two	Janakpur	Established Expanded perimeter
Bhaktapur Municipality	Bhaktapur	Three	Bhaktapur	Established Unchanged perimeter
Pokhara Lekhnath Metropolitan City	Kaski	Four	Pokhara Lekhnath	Established Expanded perimeter
Rolpa Municipality	Rolpa	Five	Rolpa	Newly established
Chandannath Municipality	Jumla	Six	Chandannath	Established* Unchanged perimeter
Joshipur Rural Municipality	Kailali	Seven	Joshipur	Newly established

* Chandannath was only recently elevated to a municipality in May 2014. In many regards it should be considered a newly established municipality.

Both Joshipur and Sahidbhumi were formed by the consolidation of multiple neighbouring VDCs. Similarly, Rolpa was created as a new municipality by amalgamating the previous municipality of Liwang with seven surrounding VDCs. Both Janakpur and Pokhara were well-established sub-metropolitan cities, which have been expanded through the integration of adjoining VDCs and, in the case of Pokhara the neighbouring municipality of Lekhnath. Bhaktapur and Chandannath are both established municipalities, whose outer perimeters were not altered by the restructuring process.

The selected municipalities reflect and represent diversity of Nepal in terms of location (ecological zones, development regions, provinces, rural and urban settings) and background of the leadership of the LGs (gender, ethnicity and political party affiliation) and include one location from each of the 7 provinces. Additional data is drawn from related studies, interviews, and policy documents to develop a comprehensive understanding of the current situation.

1.5 ORGANIZATION OF THE REPORT

The report is organized into eight chapters that address the questions outlined above.

Chapter 2 discusses the institutional and bureaucratic constraints that hinder local governments from meeting their mandates.

Chapter 3 describes the legal barriers to effective local governance.

Chapter 4 examines the political environment and support for local government, including the structure of political parties.

Chapter 5 examines whether local governments are addressing inclusiveness of women and minorities, as mandated in the Constitution and the current perceptions of and the potential for greater inclusiveness.

Chapter 6 assesses the fiscal constraints and challenges in raising resources that the local governments face in meeting their development and service delivery mandates and aspirations.

Chapter 7 raises issues regarding local governments' ability to continue to provide and improve services and develop infrastructure, including constituents' perceptions and expectations of the new local governments.

Chapter 8 concludes the study with recommendations for further research.

CHAPTER 2 INSTITUTIONAL AND BUREAUCRATIC CONSTRAINTS

What are the institutional and bureaucratic constraints that hinder local governments from meeting their mandates?

While democratic governance aspires to set-up a bottom-up relationship between citizens and the state, bureaucratic institutions are inherently top-down in nature. The balance of powers and the ability for the political leadership to exert authority over bureaucratic institutions is an essential foundation for a democratic governance system. In Nepal, not only is the bureaucracy accustomed to a top-down operational structure, but it has also played a dominant role in local government due to the instability of the political situation over the past two decades. Political leadership in a democratic government structure provides the framework in which the bureaucracy can effectively deliver services and draw upon specialized technical expertise. The absence of elected officials at the local level since 2002 means that there was no balance of power.

Operationalizing the bureaucracy in the spirit of the Constitution will require significant attention and direction. As neither bureaucrats nor our political parties have any prior experiences working in a federal setup, it will be useful to understand how to enhance the capacity of the Nepali bureaucracy. While much emphasis has been given to capacity deficit of local governments/leaders – it is also important to explore, with the same vigour, the glaring capacity deficits of the bureaucracy to fully support local governments. For example, is “Constitution Literacy” among bureaucrats required so that they understand their changed roles and responsibilities, and thereby are able to execute their functions, under the new structure?

Ultimately, the provision of vital services plays a critical role in the satisfaction of constituents with government and citizens have high expectations for the new local governments. However, there are many questions and challenges related to the capacity of the local government to meet these expectations (see Box 2). In particular, are there sufficient administrative personnel to absorb the expanded jurisdiction of the restructured local governments? The assignment of a competent cadre of bureaucrats is perhaps the most important factor that will determine whether local governments preserve their authority, provide improved services, and begin to satisfy aspirations.

BOX 2: Aspirations and Local Government Capacity, Janakpur

Peoples’ aspirations are sky high but we have very limited capacities in terms of financial resources, technology and manpower. I am sorry to say that there is huge gap between citizens’ expectation and LG capacities

Arjun Prasad Subedi
Chief Executive
Janakpur
14 November 2017

2.1 RESTRUCTURING THE BUREAUCRACY

INDICATOR 2.1: Are local governments adequately staffed to enable them to effectively discharge their functions?

Nepal's bureaucracy must be restructured to service the three-tiered federation. This is critical not only so that LGs are able to discharge their constitutionally mandated functions but also so that they are equipped to satisfy burgeoning public expectation for increased service provision. However, nine months after the completion of the first phase of local government elections, restructuring of the bureaucracy has yet to occur and the adjustment of civil servants to the local governments has yet to begin.

One priority is related to the civil servant deployment. The Federal Government enacted the *Civil Servants Adjustment Act 2017* in October 2017, however the related regulations have not yet been drafted. Once these regulations are in place, an Organization and Management (O&M) Survey Committee must be constituted in order to undertake an O&M Survey and then personnel can be deployed. Laws at both the provincial and local levels are needed for the complete deployment of civil servants to these governments. Following deployment, local governments must create legislation to administer the new personnel who now fall under their jurisdiction—for example, the town police.²² Likewise laws will be required at the local level to develop and maintain infrastructure, undertake planning and budgeting, and provide a myriad of services.

However, confusion is stalling this process. While the Federal Government has requested all LGs to prepare and submit details of employees to assist in the survey, local bodies believe it is the Ministry's responsibility and have yet to act. Furthermore, since provincial assemblies have recently been elected and formed, the Federal Government is prioritizing formation of the provincial bureaucracies; and adjustment of personnel to local governments could be further delayed.

In the period that has elapsed after the LG elections, established municipalities, such as Janakpur, Bhaktapur, and Pokhara Lekhnath, have been able to install locally hired staff to work as ward secretaries. However, the Federal Government has prevented rural municipalities and newly formed municipalities from hiring for these positions. These LGs will have to wait for the *Civil Servants Adjustment Regulations* to be endorsed before they can appoint their own ward secretaries.

In some cases, lack of resources has prevented employee deputation. For example, in the district of Rupandehi, the Ministry of Industry has ordered its employees to be adjusted to the District's 16 LGs, however due to a lack of human resources, they have remained at the District Office in Siddharthanagar from where they work for each of the LGs.

Critical for the restructuring process, many civil service employees are reluctant to move to the LGs due to their desire to be located in urban centers or in Kathmandu. Civil servant resistance to devolution has manifested at the centre through the delay of the legislative drafting and enactment process. The yet-to-be-endorsed *Civil Service Adjustment Regulations* are but one key example. At the municipal level, newly installed Chief Administrative Officers have been

²² See, *The Constitution of Nepal 2015*, sch 8.

found preventing municipalities from functioning effectively and efficiently. For example, in Janakpur, the Executive Officer (EO) did not attend his office for more than one month after the newly elected officials were sworn in. Furthermore, in another case, following central directives, the same EO has been approving building designs, contradicting the legislative provisions that the Mayor is authorized for such decisions. This has greatly angered the Mayor. Finally, until the date of this study, EOs continue to be employees designated by the Federal Government, rather than locally hired.

2.2 BUREAUCRACY AND POLITICAL PARTIES

INDICATOR 2.2: Do elected and bureaucratic local government officials express that they are satisfied with the balance between bureaucratic authority and political power?

Establishing a balance between bureaucratic authority and political power will be critical for the transition to the new governance system. Both the elected officials and executive officers were found to be frustrated at each other regarding their role and authority. Even after the installation of elected officials at the local level through the 2017 local government elections, the bureaucracy is observed to continue to wield inordinate power at the expense of those in elected office. In the formulation of the LG's annual policy paper and budgets for the fiscal year 2017-18, the role of the elected officials was, in many cases, limited to tokenistic revision and modification. This has greatly frustrated locally elected officials, who report that they feel as though they are in a subordinated and inferior position vis-à-vis the local bureaucracy, who implement executive orders of the Federal Government to override their decisions (see Box 3). Meanwhile, local civil service employees in Pokhara Lekhnath, Bhaktapur and Chandannath were found to be frustrated that many elected officials do not understand the limitations of their power, authority and jurisdiction. Interactions such as these have strained the working relationship between bureaucratic and political authorities.

BOX 3: Executive Officers and Access to Information, Chandannath

It seems that a smart phone is more powerful than the people's elected representatives! I have consulted Executive Officer of my municipality at three different times. In the first meeting I inquired about searching for a facility to establish the office for my ward. The EO said he would do it. In the second meeting, where I shared about my plans to go about recruiting my staff, the EO said it was beyond my jurisdiction to do so. The third meeting regarded managing the cheques to manage the budget allocated to my ward. The EO said that only the administrative officer and finance officer have power to handle the cheque. When answering my questions, the EO always opened his smart phone in which he stored all instructions, directions and notes issued by the Government in Kathmandu.

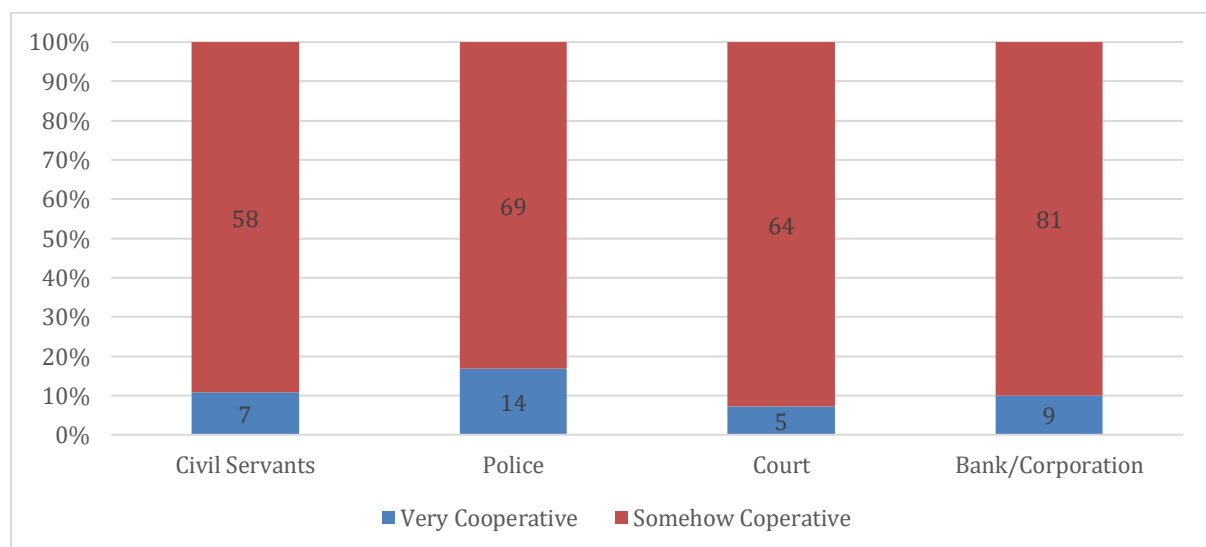
Jaya Bahadur Rawal
Chairperson, Ward 1
Chandannath
1 August 2017

2.3 CITIZEN PERCEPTIONS OF BUREAUCRACY

INDICATOR 2.3: Are constituents satisfied with local government institutions?

Despite the current obstacles that the bureaucracy has presented, citizens of Nepal have relied on the institutional structures for basic services over the past decades. While the conflicts between the political and bureaucratic institutions of government are resolved, the citizens' perceptions of governance are critical for ongoing support of the restructuring efforts. At this stage, the survey shows that citizens generally see the local government institutions (civil servants, police, and the courts) as cooperative. While only a minority find the local government units 'very cooperative', a majority find the state institutions 'somehow cooperative'. Janakpur is an exception; two-thirds of the respondents of this sub-metropolis rated local civil servants as 'uncooperative'.

FIGURE 3: To what extent are the local state machineries cooperative?



Civil society and elected leaders responded differently to the question about the extent to which the government institutions, civil servants in particular, are cooperative and available (see Box 4). Most newly elected leaders surveyed also expressed that the local bureaucracy is not cooperative.

BOX 4: Absence of Government Staff in Jumla

Jumla, being one of the remote districts of Nepal, has long been facing problems of absence of the government staffs in office for long days. Until their mission to get a transfer to Kathmandu or other convenient district is achieved, they take privilege of *kaj* (temporary working assignment outside the regular work station) as long as possible.

Interaction with civil society
Chandannath
4 August 2017

CHAPTER 3 LEGITIMACY AND THE LEGAL FRAMEWORK

What are the legal barriers to effective local governance?

The 2015 *Constitution* lays out a vision for a federal state comprised of three layers of government: Federal, Provincial and Local. The new federal structure entails a radical change from past top-down governance practices. This requires a new legislative framework to support the Constitutional vision for shared power and shared rule among the three levels of government. This chapter describes the challenges of revising the existing legislative landscape and formulating new legislation to effectively support local government.

A number of areas of legislation are required to empower the newly formed LGs to become operational. In addition to drafting and passing critical new legislation, the country's existing legal frameworks require wholesale revision and amendment to ensure uniformity and to address inconsistencies with the Constitution.²³ This is essential to enable local governments to operate. For example, the *Industrial Enterprises Act 2016* empowers the Federal Government to designate the appropriate agency to register businesses – leaving it to the discretion of the Ministry which body will be responsible for business registration. Therefore, it is not clear to local governments which industries can be registered at the municipal level. The review and amendment of Federal laws must be followed by development, review and amendment of laws at the Provincial and then at the Municipal levels in order to establish the consistency required. Furthermore, local governments will need to draft more than a hundred laws simply to have adequate clarity to execute their functions. Each of these laws must be assessed for consistency with the *Constitution* and with other laws before they are effective.

3.1 LEGITIMIZING LOCAL GOVERNANCE

INDICATOR 3.1: Have the legal frameworks required for local governments to be operational and effective as autonomous bodies been institutionalized?

A comprehensive legislative framework is required for local governments to exercise their constitutionally given functions. According to a study undertaken by the Ministry of Law, Justice and Parliamentary Affairs (2016), at the Constitution's commencement, 110 Laws on Federal Matters, 22 Laws on Provincial Matters and 6 Laws on Local Matters were required for its implementation.²⁴ Numerous other pieces of legislation and subsidiary legislation require revision and amendment. To date, 86 distinct pieces of legislation have been enacted by the Legislature-Parliament (the transformed Constituent Assembly).

The *Local Government Operation Act, 2017* (the 'LGOA') is the most important legislative piece required to institutionalise the new local governments. This Act specifies local government functions and powers and provides a basic structure for the working of municipal assemblies. However, it was not until 15 October 2017, months after the completion of

²³ The laws in force at the commencement of the 2015 Constitution remain valid. However, provisions that are inconsistent with the new Constitution will become invalid from 5 March 2019 – one year from the first session of the Federal Parliament (see Constitution, Article 304(1)).

²⁴ Ministry of Law, Justice and Parliamentary Affairs (2016).

elections to the country's local governments, that the Federal Government enacted this crucial legislation, which provides the overarching framework for local (and district) government.

Therefore, when the locally elected officials took their offices after the election, the absence of legislation meant that they were unable to perform their constitutionally envisaged functions, adequately. In lieu of proper legislative frameworks, the Federal Government issued executive orders and directives to maintain everyday governance at the local level. The administrative and service provision systems have continued to operate in the same way that they did under the previous governance system, or 'governance by historical convention'. Consequently, the Federal Government has prevailed over the elected local bodies in framing regulation of local authorities during the transition period. This is far from the *Constitution's* vision for local government autonomy.

Other important pieces of the legislative puzzle, required to support the new structure of governance, have been enacted. These include the *Personnel Adjustment Act, 2017*, the *Inter-Governmental Fiscal Management Act 2017*, and the *National Natural Resource and Fiscal Commission Act 2017* (see Box 5). However, as significant as these Acts are, their enactment is only a minor step in the direction towards instituting an adequate legislative framework for local governance.

Furthermore, in reviewing these newly enacted laws a number of concerns and issues arise. First, these laws were drafted at the federal level without input from either provincial or local government representatives/officials. They thus reflect the centralizing inclinations of the country's central political and administrative forces.

Secondly, there are many areas in which the Acts fall short of implementing the constitutional vision for federal division of power among the three layers of government. This includes instances of federal government overreach. For example, while Schedule 9 of the *Constitution* establishes the collection of royalties from natural resources as a concurrent power to be exercised by all three layers of government, the *Inter-Governmental Fiscal Management Act* confines the right to levy and collect these royalties to the Federal Government.²⁵ Furthermore, the new Acts do not provide strong safeguards for the representation and voice of local governments in key deliberative spaces. Local government representatives on the Inter-Governmental Fiscal Council, the body that is tasked with coordinating finance management between the three spheres of government, are nominated at the recommendation of their provincial government.²⁶ This may enable provincial officials to co-opt LG interests. Similarly, the Organization and Management Survey Committee, constituted under the *Personnel Adjustment Act* to design the country's new bureaucratic structure, is not mandated to consult or cooperate with the provincial and local governments.

Thirdly, the new Acts include provisions that are inconsistent with the *Constitution*. The *Inter-Governmental Fiscal Management Act* provides for royalties raised from natural resources to be distributed to the District Coordination Committees (in addition to local governments).²⁷ However, the *Constitution* only allows for revenue to be deposited and shared among the Federal, State, and Local Consolidated Funds.²⁸ On its face, there is no constitutional basis for

²⁵ *Inter-Governmental Fiscal Management Act 2017*, s 3(6).

²⁶ *Inter-Governmental Fiscal Management Act 2017*, s 33.

²⁷ *Inter-Governmental Fiscal Management Act*, sch 4, note 1.

²⁸ See *Constitution of Nepal 2015*, arts 60, 116, 204, 229, 251.

the Federal Government to fund the District Coordination Committees and thus this provision is constitutionally invalid.

Fourthly, a number of key legislative areas are not reflected or fully elaborated in the Acts. For example, the LGOA insufficiently enumerates local government power with regard to cooperatives, agriculture, disaster management, mines and minerals, and education – all areas over which local governments have legislative competence under Schedule 9 of the Constitution. In the eyes of many legal commentators, the LGOA thus does a ‘bare minimum job’ of translating the spirit of the *Constitution* into legislation.

Finally, the required regulations and subsidiary legislation associated with these laws have not yet been drafted. Instead, the Federal Government has issued directives to provide a basis for local governments to execute many basic functions. Thus, despite their enactment, these framework laws are not yet sufficient to regulate and guide LG decision-making.

BOX 5: Key Legislation Enacted to Implement Local Governance under the *Constitution*

- *Election Commission Act* (2 February 2017)*
- *Local Level Election Act* (10 February 2017)
- *Electoral Constituency Delimitation Act* (24 March 2017)
- *Political Parties Act* (13 March 2017)
- *Federal Contingency Fund Act* (13 May 2017)
- *An Act related to Election of House of Representatives* (7 September 2017)
- *An Act related to Election of State Assembly* (7 September 2017)
- *National Natural Resource and Fiscal Commission Act* (13 October 2017)
- *Inter-Government Fiscal Management Act* (13 October 2017)
- *Local Government Operation Act* (15 October 2017)
- *Personnel Adjustment Act* (15 October 2017)
- *National Assembly Election Ordinance* (29 December 2017)

* The date in brackets denotes the date that the legislation was authenticated and promulgated.

3.2 LAW MAKING AT THE LOCAL LEVEL

INDICATOR 3.2 Are local governments developing and enacting sufficient legislation for, and providing effective regulatory oversight over local public services?

The *Constitution* vests the LG with a significant new authority: the power to make local laws. Accordingly, LGs can legislate and administer executive power with regard to 22 functions under their exclusive jurisdiction and further 15 functions with the concurrent jurisdiction of the Federal and provincial governments. As a local legislature, the municipal or village council is vested with the power to enact laws as per its needs, as long as these do not conflict with federal and provincial laws. Indeed, every service envisioned to be supplied and regulated by LGs requires enabling legislation.

According to interviewees, in the absence of legal frameworks to guide local governance institutions, the new LGs run in a state of confusion, and on an *ad hoc* basis. Though the LGs have power to legislate, the first council meetings of both rural and urban governments covered

by this study concluded without making any laws. These meetings were limited to a formal endorsement of the annual policy and budget of respective LGs. Therefore, during the time of the field study, the leadership of local authority of most studied areas concentrated on some other preliminary works rather than initiating new development projects (see Box 6).

BOX 6: Initial Local Government Activities

The field research revealed that during the months following elections, the LGs focused on the following tasks:

- Preparation of updated village/city profile (these have yet to be completed, except the case of Joshipur)
- Division of work among the executive members
- Drafting terms of reference, meeting procedures, and codes of conduct;
- As a first step in the planning process, collection of information from the wards about development projects
- Conducting Village and Municipal Assembly meetings
- Logistics management for administrative staff and buildings

However, since the time of the study, the LGs have begun to draft laws. The legislative assemblies and judicial committees in most municipalities are functional and in some legislative procedures have been adopted. As LGs draw their legislative authority from the powers reserved to them in Schedules 8 and 9 of the *Constitution*, they do not require legal frameworks to be properly established at the federal or provincial levels to begin enacting local laws. Therefore, some municipalities have drafted laws on assembly procedures, revenue and budget allocation, education, and health.

In addition, the Ministry of Federal Affairs and Local Development (MoFALD)²⁹ announced that it would prepare 22 model laws for LGs to enact. However, at the time of writing, only 14 of these model laws have been drafted (see Box 7) and, as with the adjustment of bureaucrats, the MoFALD has turned its attention to the supporting and prioritising the provincial parliaments' legal needs. Furthermore, reports are emerging that, in the rush to establish legal structures, many LGs are enacting these model laws without due consultation, scrutiny or examination, and thus undermining the local legislative process. It is important that LGs develop their capacity and assert their rights to draft their own laws so that they are not dependent on the central ministries for the development of local legislative regimes.

BOX 7: Model Laws Prepared by the Ministry of Federal Affairs and Local Development

1. Local Level Decision Authentication Act
2. Local Level Financial Procedural Act
3. Village Executive Business Performance Regulation
4. Municipal Business Performance Regulation
5. Business Allocation Regulations for the Village Executive
6. Business Allocation Regulations for the Municipal Executive
7. Business Allocation Regulations for the Sub-Metropolitan City Executive
8. Business Allocation Regulations for the Metropolitan City Executive
9. A Law to Regulate and Manage Financial Procedure of Rural Municipality / Municipality

²⁹ At the current state, MoFALD is changed into MOFAGA (Ministry of Federal Affairs and General Administration)

10. Local Level Cooperative Act
11. Education Regulation
12. Agriculture Business Promotion Act
13. A Law to Regulate Administrative Procedure of Local Level
14. A Bill Related to Operating Procedure of Judicial Committees while Settling Disputes

In a Municipal Round Table Discussion, newly elected Mayors and Deputy Mayors along with the Chief Administrative Officers from 11 municipalities³⁰ highlighted the adoption of local laws, rules and regulations, which are required to legitimize executive action and budgetary allocations as a key priority for the new LGs. The elected and administrative officers raised the need for enabling laws in 20 distinct areas. The most commonly raised subject areas included: cooperatives, town police, local taxes, management of local services, basic and secondary education, and basic health and sanitation (see Box 8).

BOX 8: Need for Enabling Laws - Top Ten Identified Areas

- Cooperatives (7) *
- Town police (6)
- Local taxes (5)
- Management of local services (5)
- Basic and secondary education (5)
- Basic health and sanitation (4)
- Local Assembly, Judicial Committee, and courts (4)
- Planning and projects (3)
- Markets, environment and biodiversity (3)
- Agriculture, livestock, and poultry (3)

Municipal Round Table Discussion
COMMITTED Nepal
18 – 19 December 2017

* The number in brackets denotes the number of municipalities (out of a total 11) that highlighted a need

3.3 JUDICIAL COMMITTEES

INDICATOR 3.3: Is there enough clarity and support for judicial committees to execute their operational and functional responsibilities?

Access to justice is a fundamental human right and a basic state service enshrined within the *Constitution*. To mitigate the inefficiencies of the formal system, increase access to justice and bridge the formal-informal justice divide, the framers envisioned judicial committees in each of the 753 LGs. Headed by the Deputy Mayor of the municipality (the Vice Chairperson in rural municipalities), a three-member committee has the mandate to adjudicate, arbitrate and refer cases for mediation at the local level.

³⁰ TAF (2017): The Mayor’s Roundtable was facilitated by COMMITTED Nepal as part of their work supported by The Australian Government – The Asia Foundation Partnership in Nepal. The eleven municipalities are: Amargadhi, Belbari, Birendranagar, Bhimeshor, Damak, Dhankuta, Ghorahi, Kalaiya, Tansen, Tikapur, Waling.

The LGOA empowers these judicial committees to settle disputes related to 13 specific matters, including property boundary disputes; water use; unpaid wages; and neglect of elderly, minors and spouses. In another 11 matters, including land encroachment, minor assaults, and divorce, judicial committees are empowered to mediate.³¹ Decisions made by the committee can be appealed to district court.³²

In theory, there is basic structure in place for a mechanism to improve the pursuit of justice for citizens. However, the judicial committee's operating guidelines remain unclear. In addition, it is not clear how providers of alternative justice services will be connected to the formal justice sector. Furthermore, the *Constitution* and current legislative frameworks fail to establish adequate support and quality control mechanisms to sustain high quality dispute resolution at the local level.

Elected officials are new and many of them lack knowledge and experience in administrative, managerial and legal processes. This lack of clarity could hamper their functions and role assigned as elected representatives and could eventually impede access to justice.

Whilst the impending regulations on LGOA will provide further clarity, institutionalizing judicial committees will require multi-faceted interventions. This includes, designing coherent policy frameworks; building the capacity of committee members; developing physical infrastructure; establishing quality control mechanisms; developing connections with other access to justice services (such as the town police, shelter homes, civil society organisations, and quasi-judicial bodies); and developing mechanisms for committees to draw technical support from relevant government institutions/organisations.

³¹ *Local Government Operation Act 2017*, s 47.

³² *Local Government Operation Act 2017*, s 51.

CHAPTER 4 POLITICAL ENVIRONMENT

Is the political environment supportive for locally elected officials to debate and contest laws that impede local government interest?

Political parties are inherently top-down and hierarchical in nature. “Politicians everywhere strive to enhance their power, and those who stand at the apex of any political system therefore tend toward centralization.”³³ This is certainly the case in Nepal where the country’s political parties are highly centralized entities, which are structured such that higher central committees dominate and direct the parties’ lower local organisation.³⁴ For the successful devolution of power it will be essential for a political environment to be nurtured that enables locally elected officials to exercise autonomy in decision-making. It will be critical for locally elected officials to be empowered to debate and contests laws that impede local government interest.

4.1 POLITICAL PARTY STRUCTURE

INDICATOR 4.1 Have political parties internally restructured to reflect the federal nature of Nepal’s new governance structure.
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The centralisation of Nepal’s political parties is reflected in their pyramidal and hierarchical organisational structures and the vertical relations between the higher and the lower units of the party. All of the country’s major parties are governed by committees, of which the central committee is the most important. Subordinate committees, such as committees at the district, village and ward levels, report to and must abide by the decisions and directives—including a decision to dissolve the subordinate committee —of superior committees.³⁵

The highest authority in all of the major political parties is vested in a collective leadership. Mostly, this is a consequence of histories of factionalism, party splinter and unification and not the product of the deliberative introduction of principles of internal party democratisation.³⁶ Oligarchic tendencies are particularly well reflected in the nomination of candidates for elections. While parties have official processes for candidate selection, including specially constituted parliamentary boards and recommendation by the party’s district committee, these processes only play a supplementary role to the top leadership’s final nomination.³⁷

For the new system of local governance to take root and flourish, political parties must adopt structures that adapt to the spirit of the new *Constitution*. This requires federalisation of their internal constitutions and the implementation of structures and processes that support the power and autonomy of LG as envisaged by the new structure, allowing space within the party for discourse and debate of local issues. It will be necessary to monitor how the political parties adjust to and change in this new environment.

³³ Manor (1999) p. 13.

³⁴ Hachhethu (2006).

³⁵ Ibid p. 22.

³⁶ Ibid p. 20-21.

³⁷ Ibid p. 20.

4.2 POLITICAL COLLUSION

INDICATOR 4.2: Do local government officials from different political parties express that political deliberation is effective and do constituents observe reduced political collusion at the local level?

When the tenure of locally elected officials expired in 2002 and civil servants assumed all governance functions at the local level a new culture of governance that relied almost entirely on relationships rather than procedures was established. The formation of All Party Mechanisms (APMs) in 2009 endorsed and promoted this informal deliberative space.³⁸ Under the legal cover of consensus politics and the general pretext of post-conflict conditions, collusive tendencies in local politics flourished. The Asia Foundation's *Political Economy Analysis of Local Governance in Nepal* examined the education and health sector in this context.³⁹ This analysis observed the tactical mixing of private and public interests in resource allocation decisions, practice of nepotism, lack of transparency, informal decision-making, misappropriation of grants, and the implementation of 'ghost projects'. The result was a significant undercutting of democratic deliberations and state efficiency.⁴⁰

While the 2015 *Constitution* radically reshapes the field of local governance and elected local government officials have assumed office for the first time in 15 years, these alone will not necessarily reverse the culture of collusion that has been entrenched in local governance. The Asia Foundation's 2015 report, *Challenges and Opportunities in Municipal Governance*, highlighted that

[Local] elections will provide an opportunity to rethink local accountability structures, restart healthy political competition, and promote local legitimate leadership. *The informal networks and practices formed by a decade of non-elected governance will not be immediately forgotten*, however. These arrangements will continue to affect whatever system is put into place, though they are likely to evolve and change over time. The advent of *elections must be coupled to efforts to reactivate accountability mechanisms and replace political collusion with competition*, or their ultimate impact may be less than desired.⁴¹

The new local government structure integrates a directly elected executive and local legislature (Municipal and Village Assemblies). The executive body is composed of local governments' head and deputy-head as well as the various ward chairpersons. LG executives are thus required to work in involuntary coalitions, which may hinder competitive party politics from taking root in earnest at the local level.

Local executives across the country contain a wide range of internal diversity of political affiliation. In the seven local governments studied, only Bhaktapur has uniform political affiliation in the makeup of its executive body, with all positions held by members of the Nepal Workers Peasants Party. The composition of the executive bodies in the other six locations ranged from Shahidbhumi, where all of the members of the municipal executive, except one, are affiliated with the CPN-UML; to Janakpur, where the municipal executive has representatives from five different parties. Meanwhile, in Chandannath positions within the

³⁸ The APMs were formally dissolved in January 2012. However, their presence and influence in local governance continued unabated. See TAF (2015) p. 4.

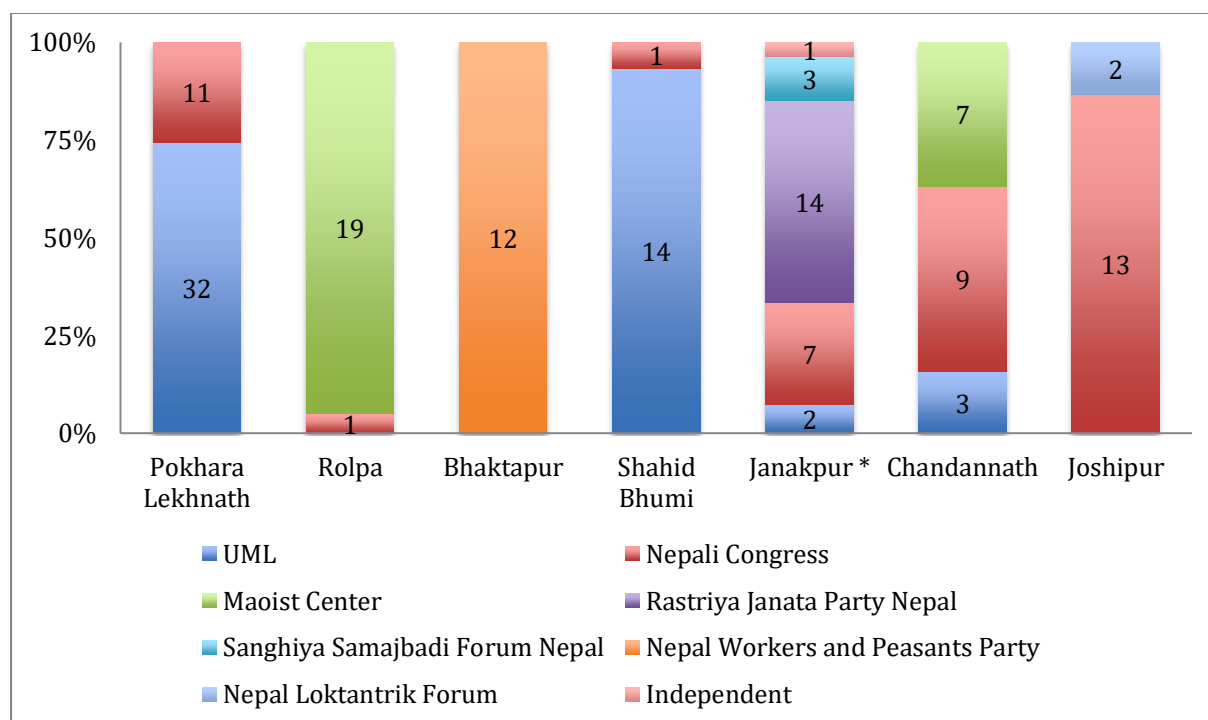
³⁹ TAF (2012).

⁴⁰ TAF (2012).

⁴¹ TAF (2015) p. 5 (emphasis added).

executive are almost evenly divided between the Nepali Congress, CPN (Maoist Center), and CPN-UML (see Figure 4).

FIGURE 4: Composition of LG Executive by Political Party



* Data regarding the political party affiliation of the eight executive committee members in Janakpur was not available at the time of the study.

For LGs to function effectively, parties will have to engage cooperatively and constructively. In the immediate aftermath of elections, elected officials in the study’s municipalities expressed sentiment that they need to work beyond the interest of their own political party (see Box 9) and entered into debate and discussion, leading to consensus in decision-making. Elected officials were found to be sharing power through a division of work, particularly in the nomination of members from local minority political parties as convenors to the local government’s thematic committees, even in local governments in which the minority party got victory from just one Ward, such as Sahidbhumi.⁴²

BOX 9: Political Cooperation at the Local Level, Jankpurdham

In the very first board meeting after the election, the Mayor promised that he would work as a representative of all the people of Janakpur, no matter who voted for, rather than as an agent of his own party (Rashtriya Janata Party Nepal) irrespective of the cost he has to bear from his party. At the same time, he requested all of the board members, who represent different political parties, to follow this spirit. This is a marvellous statement that motivates all of us to work in team unity but we have to wait and see to what extent the Mayor translates his promise into action.

Subha Narayan Mandal
Chairperson of Ward 13
Janakpur
28 October 2017

⁴² However, we note that in Sahidbhumi, the minority party board member was nominated for a thematic committee that is considered to be of lesser significance—the Committee of Environment Protection and Disaster Management.

The imposition of coalitions within the local executives introduces an environment that can be utilised positively for political deliberation and policy contestation within the local government, fostering democratic practices. However, this new space may also fall prey to the culture of collusion that has dominated local governance for more than a decade. It will be essential to monitor the systems and practices that develop within the local legislatures and executives and observe whether collusive schemes continue to flourish or whether there is a renewal of competitive politics at the local level. In future research, some of the factors that could be assessed regarding the prevalence of local political collusion include identifying whether there are conflicts of-interest and/or nepotism in local projects, the transparency (or lack of) in project development and implementation, whether decision making follows formal procedures, and whether misappropriations of grants and/or ghost projects are identified.

4.3 DISPUTE MECHANISMS

INDICATOR 4.3: Are mechanisms designed to settle disputes between the different layers of government being utilized?

The constitutionally assigned functions to the three layers of government include many overlapping areas of jurisdictions. Disputes between the different levels of government have already begun to emerge (see Box 10). The absence of clear legal frameworks for local governance and the many legislative inconsistencies will only serve to exacerbate uncertainty and conflict. The ways that disputes between LGs and the provinces and the Federation are resolved will be an important indicator of the extent to which local governments are able to exercise their autonomy.

The *Constitution* establishes a Constitutional Bench in the Supreme Court, which is tasked with settling disputes between the different governments relating to jurisdiction.⁴³ This is an important institution for the development of local governance, not only because the Court will bring clarity and definition to the Nepali federation, but also because it provides a strong mechanism for locally elected officials to debate and contest laws that impede local government interest.

BOX 10: Trekkers' Information Management System (TIMS) Card

Foreign tourists are required to carry the Trekkers' Information Management System (TIMS) card, which is a permit to be carried when entering into designated areas in Nepal. The fee is collected in Kathmandu and distributed to the localities within the designated areas to support local tourism and development activities. On 9 July 2017 the executive committee of Khumbu Pasang Lhamu Rural Municipality, which is primary entry point into the Sagarmatha National Park, resolved to cease recognising TIMS. From 1 October 2017 the rural municipality begin charging their own local tourism fee.

The Central Government officially requested the rural municipality to cease charging the fee and on November 1, 2017 the Ministry for Federal Affairs and Local Development (MoFALD) issued a circular to all local government directing them to stop levying fees from tourists entering their respective areas. The circular stated that, in accordance with the newly enacted

⁴³ The *Constitution of Nepal 2015*, art 137.

Local Government Operation Act, only provincial governments were empowered to determine and collect trekking and tourism fees.

In response to this, Nima Dorjee Sherpa, Chairman of the rural municipality stated that the rural municipality has ‘rights to collect and allocate tourist revenue as suggested in [schedule 8 of] the Constitution’. The Chairman has said that his executive committee will not follow the MoFALD directive and that they will only cease charging the fee under the compulsion of a Supreme Court order. At the time of writing, Khumbu Pasang Lhamu Rural Municipality continues to charge the fee and the TIMS card has stopped being issued to foreign tourists traveling to the region. No proceedings have been commenced with the Supreme Court.

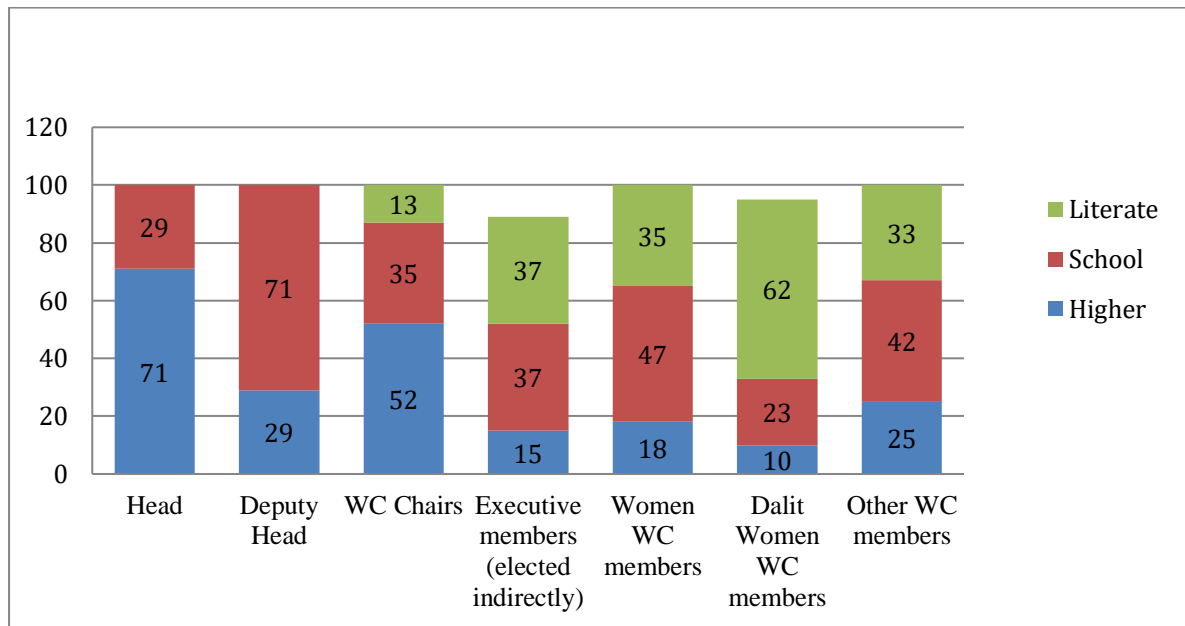
4.4 CAPACITY OF LOCAL OFFICIALS

INDICATOR 4.4: Do locally elected officials have the capacity to fulfil their mandates and to enter into and contest ideas in the policy arena?

Citizens elected 35,041 local officials across the 753 local governments in Nepal between May and September 2017. It will be crucial to monitor the capacity of these elected officials. While many of the leaders come into office with skills ranging from previous political activity to private sector experience, the structure in which they previously operated was different. Newly elected officials must learn new skills to operate effectively within the newly established democratic system. As such, the relevant question is whether they are developing their competency to lead and govern an LG within a Federal Nepal. Elected officials require the skills not only to undertake their responsibilities for service provision and project development, but also to enter and contest ideas in the policy arena.

Within the seven surveyed locations, five local government heads had completed higher-level education degrees. While only two of the surveyed deputy heads had attained higher-level education, the remaining five had all completed their School Leaving Certificate. Half of all ward chairpersons had completed higher education. However, educational achievement is significantly lower among ward members. Notably, within the seven surveyed locations, 33% of ward members, 35% of women ward members and 62% of Dalit ward women members were found to be just literate (see Figure 5).

FIGURE 5: Level of Education of Elected Local Government Leaders (figures in %)



Educational asymmetry will likely impact the ability of locally elected officials to engage the daily business of governance and challenge decisions made by more highly educated civil servants and central political leaders. For instance, the deputy heads—often women with only high school education—are constitutionally assigned to be the convenors of the local government Judicial Committee. As none of the surveyed deputy heads have any prior legal training they will be heavily dependent on, and in all likelihood with regard to technical matters subordinate to, bureaucrats in the local government’s legal unit.

Overall, while some of the newly elected officials have experience working in public office, most do not. At the most senior level, four of the surveyed LG heads had previously been elected to public office—as a deputy mayor, as a member of the Constituent Assembly, as a Village Development Committee Chairperson, and as a Ward Chairperson. Furthermore, all the LG heads held positions within their respective parties prior to their nomination. In contrast, not a single deputy-head, all of whom were women, had ever served in public office. However, five of the seven deputy-heads surveyed have some formal political experience: four through their respective parties’ women’s wings, while one was a member of the party’s Central Committee. The remaining two deputy-heads only received party membership immediately prior to their nomination as a candidate.

Experience in public office is by and large completely absent among ward chairpersons and ward members and is by and large limited to the higher-level leaders. This will be a hindrance for LGs as they seek to executing their functions, engage in policy making, and negotiate with the other levels of government. However, irrespective of their capacity, the fieldwork found that elected officials in all the seven local governments are desperately looking forward to opportunities to honour the trust that their constituents have placed in them through bringing publicly noticeable change for better local governance.

CHAPTER 5 INCLUSION

Is inclusiveness of women and minorities, as mandated in the Constitution, being adequately addressed by local government?

One of the promises of the 2006 People's Movement (*Jana Andolan II*), was to restructure the Nepali state to promote more inclusive democracy. The *Interim Constitution of Nepal 2007* introduced quotas for underrepresented and disadvantaged groups and a 33% reservation for women, resulting in increased representation of these groups in both the 2008 and 2013 Constituent Assemblies. These initiatives were positive steps toward inclusive governance, providing a representational space for marginalised groups through the constitutional drafting process.⁴⁴

Nepal is known for its diversity. The country is home to 125 officially recognised caste and ethnic communities and boasts 122 different languages with a range of socio-cultural practices. The total population, approaching about 29 million, lives in different geographical regions, including the Southern Plains (*Tarai-Madhes*), Mid-Hills and Mountains. The economic status, education, health, level of exposure to development, and access to resources varies from urban to rural, east to west and north to south. Deep-rooted structural inequalities are linked to ethnic identity, language, religion, region, gender, and economic status resulting in a range of discriminatory practices.

Grievances arising from political marginalization, caste discrimination, and exclusionary practices of the state perpetuate a historical divide between communities. The implementation of legal reforms and policies enacted to improve gender equality and social inclusion at the national and local level have been weak.

While the 2015 *Constitution* includes provisions for women and other marginalized groups in all levels of government, these alone are unlikely to be effective in improving the quality of representation and meaningful participation for these groups given persistent cultural constraints. As subnational governments assume greater responsibility, and new procedures and processes for governance and decision-making are adopted, there will be opportunities to better integrate ideas for more effective gender equality and social inclusion.

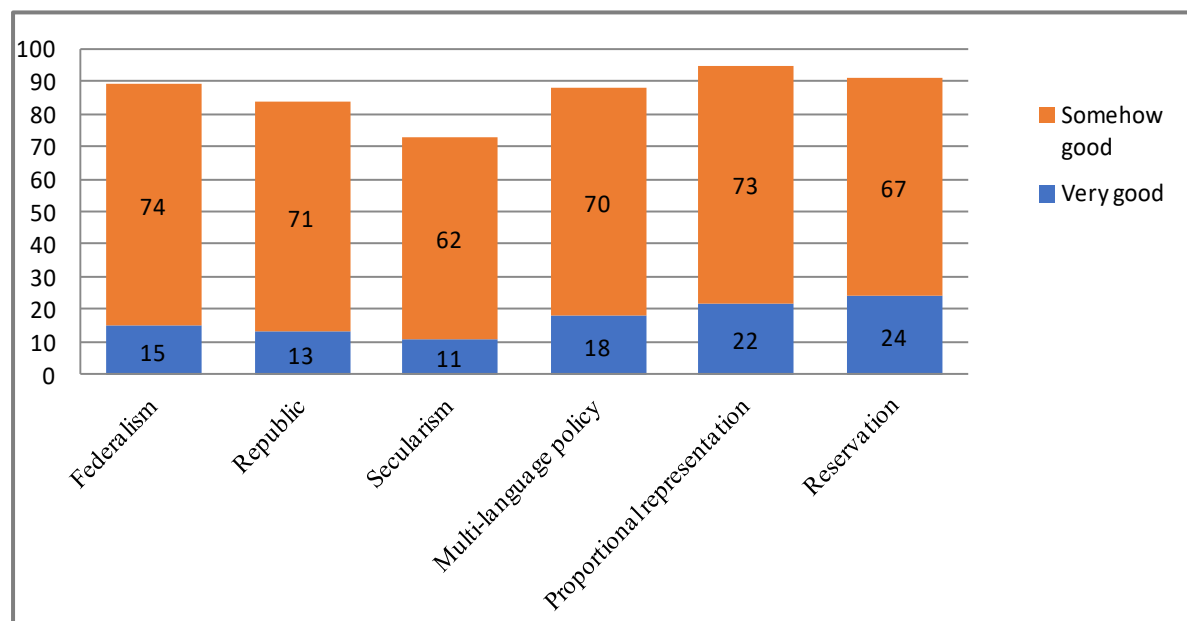
⁴⁴ International IDEA (2015).

5.1 COMMITMENT TO INCLUSION

Indicator 5.1: Do constituents continue to express support for the government commitment to inclusion?

Support for government commitments to inclusion provides a critical basis for the implementation of inclusionary practices. In the coming years, it is important to keep track of peoples’ support for and perceptions of inclusion in order to gauge progress. In this study, over two-thirds of the surveyed respondents perceived the commitment to promoting federalism, republicanism, secularism, multilingualism, proportional representation, and reservations—key issues for the country’s inclusion agenda—as ‘very good’ or ‘somehow good’ (see Figure 6). Furthermore, the *Survey of the Nepali People (2017)* finds that nine in ten Nepalis say they support equal civil rights for all castes and ethnic groups.⁴⁵ In the present study, however, there is, an appreciable difference between the respondents who expressed satisfaction with the commitment to secularism (to which 73% answered affirmatively) and proportional representation (to which 95% of respondents answered favourably).

FIGURE 6: Adherence to the State Restructuring Agendas (figures in %)

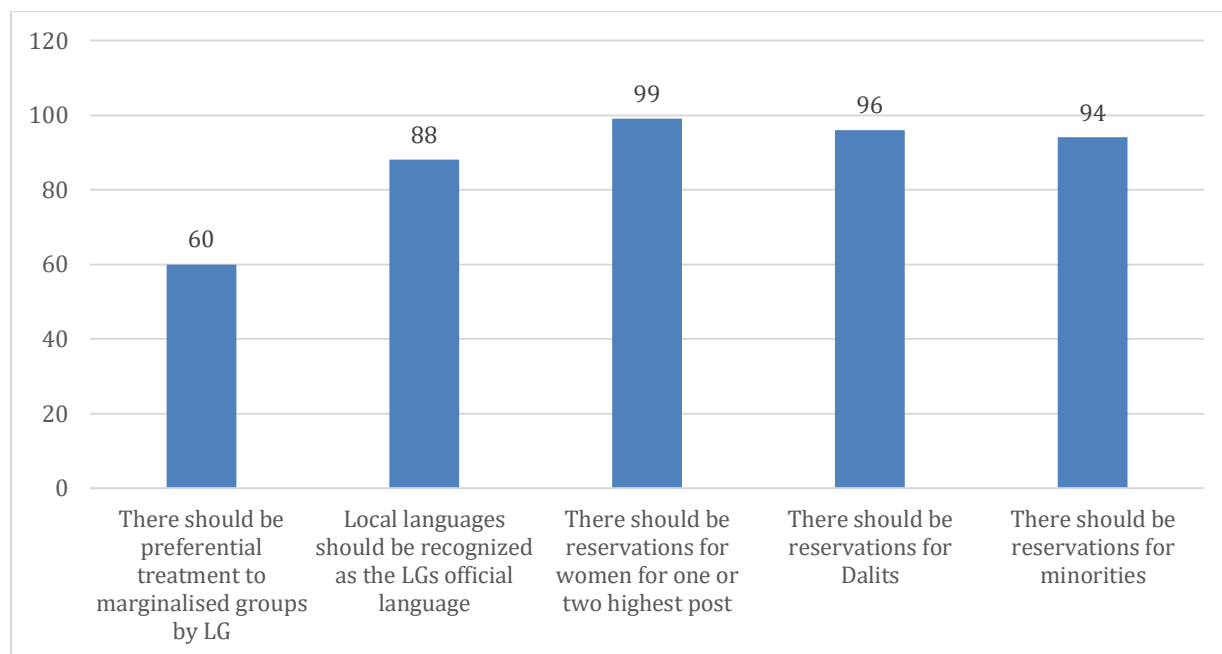


The *Constitution* mandates the representation of marginalized groups, including women, Dalits, and minorities in the local governments.

The survey shows that an overwhelming number of respondents—irrespective of location or ethnic or caste identity—support recognizing local minority languages as an official language of local government and providing preferential treatment to marginalized groups (see Figure 7).

⁴⁵ See Survey Question D8 in TAF (2018a).

FIGURE 7: Opinions on Provisions for Inclusion (figures in %)



5.2 REALITIES OF REPRESENTATION

Indicator 5.2: Have women and minorities taken on responsibilities in the local government and developed and instituted policies to increase inclusion?

Creation of new leadership positions has generated new opportunities for women to be numerically represented within Nepal’s political system. As a result of constitutionally mandated quotas, the 2017 LG elections resulted in the election of at least 14,352 women—the highest number ever elected to public office in the country’s history. In both urban and rural municipalities, at least two of the four ward members are women, one of whom must be from a Dalit caste. In addition, political parties were required to field at least one woman candidate for the offices of mayor and deputy mayor (chair and vice chair in rural municipalities). The *Constitution* also mandates that the nine-member District Coordination Committees include a minimum of three women and at least one Dalit or member of a minority community.

The aspiration is that the women ward chairs and members, both Dalits and non-Dalits, may advocate for gender sensitive policy and programme development. While these are promising steps towards building inclusive participatory spaces, existing socio-cultural and economic marginalization still hinders the substantive role and involvement of women.

Results also show that the quotas have a positive effect in bringing women into LG positions, however, in posts without mandated gender quotas (the two-other ward committee member seats and the ward chair seat), women’s representation is negligible. Out of 13,484 non-quota ward member positions, only 2% went to women. Similarly, out of the total 6,742 ward chair seats, women won only 1%.⁴⁶ This may be partly due to the low participation overall of women

⁴⁶ Paswan (2017).

in politics and government in Nepal. Moreover, while the *Survey of the Nepali People (2017)* reveals that Nepalis express progressive views on the role of women in society, respondents in that survey were less affirming of the engagement of women in politics.⁴⁷

Many of the women who have been elected to local government positions likely had some previous experience in politics or community development. Four of the women deputy-heads of the local governments surveyed have experience working in the woman's wings of their respective parties, including the deputy mayor of Janakpur who chaired the women's wing of her party for the district. The mayor of Chandannath, the only women mayor covered by the surveyed and one of only 18 women in the country to be elected as a head of a LG, is a member of the Nepali Congress District Committee in Jumla. With this background, the women's presence as deputy heads in the LGs could have a positive impact in increasing gender sensitivity in governance. Similarly, another recent study shows that a majority of the women elected representatives (among the sample of 10 municipalities included in the study) were involved in social groups, development projects, community activities, and various other engagements including party politics prior to election. While the women representatives could not provide information on what each political party was looking for in terms of eligibility and qualifications from its candidates, they opined it could be their rapport with the community or their previous engagements outside the home.⁴⁸

However, providing opportunities for adequate representation is a prerequisite for greater inclusiveness but is not sufficient to ensure meaningful participation. Women and Dalit representatives elected to the LG from reserved seats, in all the FGDs and interviews, shared the opinion that they are not encouraged to participate in decision-making and are deprived of specific roles and responsibilities in local governance (see Boxes 11 and 13).

BOX 11: Women Participation in Local Government, Sahidbhumi

Women constitute 41% of total Assembly members of Sahidbhumi *gaunpalika* but all of them, except a deputy-chair, are placed in subordinate position as WC members. Many of them have yet to see what the WC meeting means for them. Few who attended some meetings have sour experience of the male domination. At Assembly meeting also only two women spoke but none of them received documents of annual policy and budget before it was presented in the Assembly meeting and also in aftermath of convening such meeting. *Women's participation is, therefore, merely confined a physical presence.*

Focus Group Discussion
Sahidbhumi Rural Municipality
26 August 2017

Meanwhile, many deputy mayors expressed that they have received responsibilities that are less than their expectations. Deputy mayors or chairpersons are mandated to convene the Judicial Committee of the LG, but none of them are trained in law. As such, they require the assistance of legal experts (see Box 12). However, the absence of a legal unit in village governments and newly formed municipalities impedes them from discharging the functions that fall under an exclusive jurisdiction of the committee that they head.⁴⁹

⁴⁷ See Survey Report, pg:35-48 TAF (2018a).

⁴⁸ TAF (2018b).

⁴⁹ Established municipalities, such as Janakpur, Pokhara Lekhnath and Bhaktapur already have their legal units. Newly established municipalities and rural municipalities have yet to receive staff to establish new units.

BOX 12: Women Conveners of Judicial Committees, Pokhara Lekhnath

Most of the cases that I, as the convener of the Judicial Committee, am receiving are similar (divorce) in which women suffer from the lack of necessary documents (i.e. citizen certificate, marriage certificate and birth certificate of their children) to claim property after separation. I have been able to settle most cases taking the help of the legal cell of the metropolis.

Manju Devi Gurung
Deputy Mayor
Pokhara Lekhnath
6 October 2017

Women ward members, both Dalits and non-Dalits, expressed that they want to translate a spirit of being ‘gender friendly’ into policies and programmes of their respective local government. However, most ward members, particularly those holding the reserved seats for women and Dalits, also complained that they had not been assigned any specific role in the LG. In fact, nearly half of the women representatives included in a separate study expressed that they “have no idea” how to tackle the challenges they are facing.⁵⁰

BOX 13: Dalit Involvement in Local Government, Rolpa

There are 19 Dalits, including one directly elected WC chairperson and 7 others elected indirectly, in the 52- members Council in Rolpa Municipality. Indeed, there are also 8 Dalits in the 20-members Board.

Dalits, being the most marginalized group, have a lot of problems, i.e. discrimination and deprivation based on the longstanding practice of untouchability, lack of education and awareness, poverty and unemployment. These issues were put on floor during the Council as well as the Board meetings. *But most meetings ended without making any substantial decision in favour of Dalits.*

Focus Group Discussion
Rolpa
20 August 2017

The *Constitution* does not provide a framework for the representation of local minorities in local government, as such, in many cases significant local minorities are completely unrepresented in the newly elected bodies. In this study, for example, while Khas Aryas collectively constitute approximately 10% of Bhaktapur’s total population, not a single person of Khas Arya identity, except for a Chair of Ward number one, was elected to the municipal government, which is comprised solely of representatives of Newar ethnic identity. In most cases, directly elected leaders selected people of their own ethnic identity when appointing indirectly elected members to the municipal executive. Furthermore, a recent analysis draws attention to the fact that Madhesi women are not represented as well as Hill women; similarly, Tarai Dalits, who form one third of the country’s Dalit population, only constitute 23% of the officials elected to the Dalit Woman Ward Member post.⁵¹

⁵⁰ TAF (2018b).

⁵¹ Paswan, Bhola (2017).

Despite the presence of the marginalized groups in the newly formed LGs, policies adopted contradict the aspiration for inclusive democracy. The budgets of most Local Governments within the study allocated only 12-15%. In addition, most of the LGs dropped a collaborative programme (with NGOs) on social mobilization (as mandated under the previous Local Governance Act), which was introduced to empower excluded groups (including women, Dalits, and marginalized groups) through awareness and participation.

Overall, the LGs have prioritized physical development over inclusive growth. This was especially noticeable in the way in which political and civil society leaders talked about development during focus groups and interviews in the seven locations. Those of Khas Arya identity mostly talked about the need for physical development, while the Janajatis stressed the need for ethnic inclusion and recognition of their identity. Meanwhile, Dalits focused on social reforms against untouchability, exploitation and deprivation; whereas women emphasised reforms against patriarchal institutions and social practices such as domestic violence, alcohol, gambling, *chhaupadi*, child marriage, and polygamy.

Ethnic organizations also complained that the newly formed LGs have not consulted them on plans and policies. However, the Mayor of Rolpa said that he had informally consulted with gender and ethnicity-based organizations. Future studies may look in further detail into the involvement of ethnic organizations in local governance.

CHAPTER 6 FINANCING THE FUTURE

Do the local governments have adequate financial resources and fiscal autonomy to meet their development and service delivery mandates and aspirations?

One of the most important factors in the ability of LGs to effectively operate lies in their financial capacity. Any multi-tier government system requires a balanced approach to fiscal assignments between the levels of government so that adequate funds are available for each level of government to execute its assigned functions. LGs rely on a combination of inter-governmental transfers (Federal and/or State), revenues from taxes and fees (e.g. property taxes), and in some cases private finance (e.g. bonds, private sources for infrastructure lending). For fiscal decentralization to be successful it should be carefully sequenced with true devolution of authority and discretion to local officials and increased revenues or the ability to raise revenues at the local level.⁵²

A coherent legal framework for fiscal management – both generation and distribution – is critical for the operation of the new governance structure. Apart from the money raised by the local governments themselves (which in most cases is negligible), the constitutional arrangement requires the Federal Government to provide grants to the local level. Legislation to empower revenue collection at the provincial and local levels is necessary to provide clarity on the concurrent fiscal powers enumerated in the Constitution. It will also enable local governments to determine their budget sizes.

However, LGs have yet to receive grants under the fourfold grant regime established by the Constitution (conditional grants, complementary grants or special grants, and equalisation grants).⁵³ It is the role of the National Natural Resources and Fiscal Commission (NNRFC) to regulate centrally dispersed fiscal equalisation and conditional grants. Until this occurs, local governments must spend money in line with central government policy (i.e. in accordance with executive orders); otherwise they are in breach of the *Audit Act 1991*.

6.1 REVENUE AND EXPENDITURE

INDICATOR 6.1 Are Local Government revenues adequate to meet their expenditure requirements?

The *Constitution* assigns substantial expenditure responsibilities to the subnational level. Among the 22 functions bestowed under their jurisdiction in Schedule 8 of the Constitution, LGs assume responsibility for: the management of the local services; local level development plans and projects; basic and secondary education; basic health and sanitation; local roads; town police; water supply and small hydropower projects; and disaster management. In addition, under Schedule 9, LGs share legislative responsibility with the federal and provincial governments for: cooperatives, electricity service, social security, and the registration of personal events (see Figure 8). The *Local Governance Operation Act* expounds these schedules, enacting them into national law.

⁵² Bahl (2009)

⁵³ Constitution, s 60.

FIGURE 8: Local Government Powers (Schedules 8 and 9 of the Constitution)

Exclusive powers (Constitution, Schedule 8)	Municipal Police
	Cooperatives
	Operation of F.M. Radio
	Local taxes (property tax, house rent tax, fee on registration of houses and land, vehicle tax), service fee, tourism fee, advertisement tax, business tax, land tax (land revenue), fines, entertainment tax
	Management of local services
	Local statistics and record keeping
	Local level development plans and projects
	Basic and secondary education
	Basic health and sanitation
	Local market management, environment protection and bio-diversity
	Local roads, rural roads, agricultural roads, irrigation
	Management of Village Assembly, Municipal Assembly, District Assembly, local courts, mediation and arbitration
	Management of local records
	Distribution of land, building ownership certificates
	Agriculture and animal husbandry, agricultural production management, animal health, cooperatives
	Management of senior citizens, persons with disabilities and the incapacitated
	Collection of statistics of the unemployed
	Management, operation and control of agricultural extension
	Water supply, small hydropower projects, alternative energy
	Disaster management
Protection of watersheds, wildlife, mines and minerals	
Protection and development of languages, cultures and fine arts	
Concurrent powers, shared with the Federation and provinces (Constitution, Schedule 9)	Cooperatives
	Education, Health and Newspapers/Magazines
	Health
	Agriculture
	Services such as electricity, water supply, irrigation
	Service fee, charge, penalty and royalty from natural resources, tourism fee
	Forests, wildlife, birds, water uses, environment, ecology and biodiversity
	Mines and minerals
	Disaster management
	Social security and poverty alleviation
	Registration of personal incidents, births, deaths, marriages and statistics
	Archaeology, ancient monuments and museums
	Landless squatter's management
	Royalty from natural resources
Motor vehicle permits	

However, it appears likely that the newly created subnational governments and their entities will lack sufficient resources to deliver the range of services for which they will be held accountable. This is due in part to significant challenges with regard to subnational expenditure,

including a lack of clarity on the authority of subnational governments to raise the required resources to implement their budgets (as described in Chapter 3). The LGs rely heavily on federal government transfers, with weak revenue bases compared to expenditure. Revenue assignments according to the Constitution, reveal that, “the major sources of revenue custom duty, value added tax (VAT), excise duty, corporate income tax, and personal income tax which comprise around 80% of total tax revenue are assigned to be collected by the federal government... (and) around 90% of total tax revenue would be under the jurisdiction of the federal government.”⁵⁴

Moreover, the revenues raised by LGs from their own sources are projected to be severely insufficient to meet their needs for infrastructure investment. Recurring expenses alone will most likely exhaust federal fiscal equalization transfers meaning that capital programs will need additional sources of funding. With a high degree of dependence on grants from the federal government, local governments will have limited access to capital markets and private sector finance for their infrastructure projects. Furthermore, infrastructure investment, particularly at the subnational level, will require laws dealing with private participation and capital market access to be put in place. At this stage, most local governments will not have the capacity to engage the legal frameworks pertaining to the management of operations involving the private sector and capital market access. Ultimately, inadequate capacity may lead to a lack of investment and insufficient mobilization of resources, weakening the potential of the economy. Therefore, it will be essential that local governments are advised on legal provisions and the regulatory framework at the subnational level to mobilize private capital as a means for resource mobilization.

An analysis of the vertical re-allocation of the public spending composition of five key ministries (Education, Health, Agriculture, Urban Development, and Federal Affairs and Local Development), calculated that under the three-layered governance structure at least 20% of public sector expenditure is expected to take place at the local government level. The study expects that local expenditure on public services and economic affairs would remain a small percentage of national expenditure. However, the bulk of national spending on education and on housing and community affairs and a significant portion of the total spending on health would take place at the local level.⁵⁵ Meanwhile, in the fiscal year 2013/14, local level expenditure comprised only 8% of total government expenditure.⁵⁶

6.2 RAISING REVENUE

INDICATOR 5.2: Do local governments show an increase in their own-source revenues (as a per cent of total local government budget)?
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Nepal’s *Constitution* provides for a relatively fiscally centralized system. The Federal Government retains all major revenue sources—such as individual and corporate income taxes, and VAT; provincial and local governments are only assigned a limited number of comparatively low-yielding revenue sources, such as property and vehicle taxes (see Figure 10). The Federal Government thus performs a redistributive function. Therefore, for example, the Federal Government has prohibited the authority of local governments to tax wealth and

⁵⁴ Shankar (2015) p. 103.

⁵⁵ Boex (2016).

⁵⁶ Shankar (2015).

income. In addition, some taxes collected at the local level will be returned to higher levels of government for redistribution.

FIGURE 9: Selected Sources of Revenue in Federal Nepal

Level of Government	VAT and Excise Duties^{*57}	Royalty from Natural Resources^{**58}	Foreign Grants or Borrowing⁵⁹	Internal loans⁶⁰
Federal	70%	50%	Able to attain	Able to attain
Provincial	15%	25%	Only with the pre-approval of the Federal Government	Should obtain consent of Federal Government
Local	15%	25%	Only with the pre-approval of the Federal Government	Should obtain consent of Federal Government

* Levied on domestic products

** Including mountaineering, electricity, forest mines and minerals, water and other natural resources

⁵⁷ *Inter-Governmental Fiscal Management Act 2017*, s 6.

⁵⁸ *Inter-Governmental Fiscal Management Act 2017*, sch 4.

⁵⁹ *Inter-Governmental Fiscal Management Act 2017*, s 12.

⁶⁰ *Inter-Governmental Fiscal Management Act 2017*, s 14.

FIGURE 10: Sources of Revenue According to Schedules 5, 6, 8, and 9 of the Constitution

Level of Government	Source of Revenue
Federal Government	Custom duty Excise duty Value added tax (VAT) Corporate income tax Personal income tax Tax on remuneration Passport fee Visa fee Tourism fee * Service fee * Penalties and fines * Gambling, lottery and casino Royalty received from natural resources *
Provincial Government	Land and house registration fee * Vehicle tax * Entertainment tax * Advertisement tax * Tax on agricultural income Service fee * Tax on tourism * Fines and penalties * Royalty received from natural resources *
Local Government	Local tax, including: <ul style="list-style-type: none"> - Property tax - House rent tax - House and land registration fee * - Vehicle tax * Advertisement tax * Business tax Entertainment tax * Land tax (land revenue) Service fee * Tourism fee * Fines and penalties * Royalty received from natural resources *

* Simultaneously assigned to another government level

The assignment of revenue sources within the new federal setup does not signal a departure from the arrangement of revenue assignment under the erstwhile *Local Self-Governance Act 1999*. Indeed, “there is almost no difference between the [previous] assignment of revenue powers and the one contained in the Constitution.”⁶¹ Generally, what were central taxes have simply become federal taxes, whereas district, municipal and village taxes have largely been assigned to local governments, notwithstanding some duplication at the provincial level.⁶²

⁶¹ Boex (2016) p. 59.

⁶² Boex (2016) p. 55.

Consequently, local governments in Nepal are heavily dependent on federal grants to meet their expenditure. According to *Inter-Governmental Fiscal Management Act 2017*, which was enacted in October 2017, local governments will receive the following four types of federal grants: (i) equalization grant, (ii) conditional grant, (iii) supplementary (samapurak) grant, and (iv) special grant.⁶³ In addition, LGs are entitled to 15% of revenue collected from value added tax (VAT) and excise duties and to 25% of the royalties generated from natural resources (see Figure 14).

In the future, LGs may also expect transfers from the provincial governments, however these will likely be minimal since the provinces will also heavily depend on transfers from the Federal Government. Moving forward, an assessment of the provincial government budgets and allocations to local governments will be critical.

In the study areas, internal sources of funds remain below 5% of the total budget, with the exceptions of Bhaktapur, Janakpur, and Pokhara Lekhnath (see Figure 11). As Bhaktapur, Janakpur, and Pokhara Lekhnath are tourist hubs, the local governments raise significant revenues from this sector.

FIGURE 11: Internal Revenue as a Percent of Total Budget, 2017-18 (NPR, figure in ‘000’)

	Total Budget		Internal Revenue	
	Figure	Figure	Figure	Percentage of Total Budget
Sahidbhumi	235,316	3,356		1.4
Janakpur	1,927,660	1,202,800		62.3
Bhaktapur	1,055,500	422,010		40.0
Pokhara Lekhnath	4,038,253	1,384,000		34.3
Rolpa	488,542	15,550		3.2
Chandannath	264,000	5,000		1.9
Joshipur	387,048	2,772		0.7

A heavy reliance on federal government fiscal transfers raises potential concern for local government independence. A system based on national collection and redistribution of revenue is appropriate in the Nepali context in which revenue-raising potential will vary greatly from province to province and from LG to LG. In this context, local governments cannot be expected to raise the lion’s share of their own revenue. However, devolution of power requires that LGs be vested with a meaningful degree of authority or decision-making power over expenditure—that is, LGs must be empowered to set their own budgets. Budgets that are dominated by inter-governmental fiscal transfers are open to pressure, manipulation and co-optation by federal government interests, especially through the imposition of conditional grants. Ongoing evaluation of LG budgeting is required to monitor undue external interference.

In addition, LGs need to increase their focus on raising their own resources to finance development activities, by overcoming considerable capacity constraints. The local authorities, both elected and administrative, realize the need to increase revenues through new and

⁶³ See also *Constitution of Nepal 2015*, art 60.

increased local taxes. However, the locally elected officials in the study locations expressed an unwillingness to take what they perceived to be an unpopular decision (see Box 14). This is, of course, not unusual and consistent with findings from the *Survey of the Nepali People (2017)*,⁶⁴ which found that 50% of Nepalis consider that taxes are too high. Further, worldwide evidence on decentralization shows that, "...even when they are empowered to impose at least modest taxes, elected representatives in those institutions are exceedingly reluctant to do so since this will make them unpopular with voters."⁶⁵

BOX 14: Local Government Unwillingness to Raise Taxes, Joshipur

My rural municipality has no other notable sources of income other than land tax. However, it will be risky to increase the rate of this tax because voters will be against it. For next year, I may be able to increase the tax from shops in the bazar to some extent but the volume of income from this sector is nominal. Therefore, there is no other way than for us to rely on grants received from central and provincial governments.

Ram Krishna Chaudhary
Chairperson
Joshipur
17 August 2017

In contrast, however, majority of respondents in the seven surveyed localities expressed that because their new local government has increased responsibilities they are likely to increase the rate of tax and service charge (see Figure 12). This corresponds with findings that most Nepalis (78%) would be willing to pay more taxes if it resulted in improvements in the quality of roads, education and healthcare.⁶⁶ Further, respondents in the seven locations also expressed optimism about the likeliness that newly elected LGs would expedite economic development.⁶⁷ As such, the hesitation of the locally elected officials may be overstated, as constituents may be prepared to contribute higher taxes on the basis of local service delivery improvements and economic development.

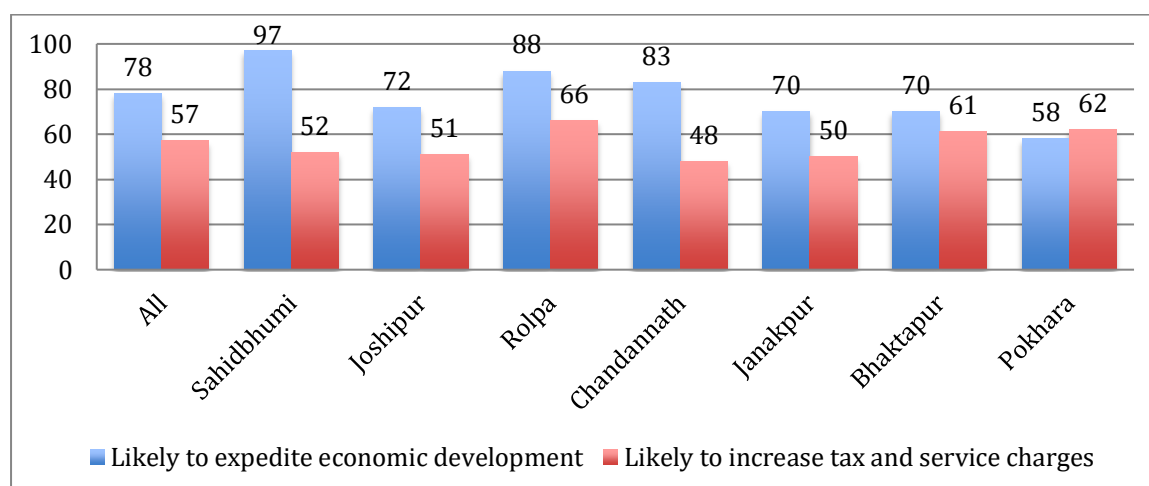
⁶⁴ See Survey report, pg:53-86TAF (2018a).

⁶⁵ Manor (1999) p. 68

⁶⁶ See Survey report, pg:53-86 TAF (2018a).

⁶⁷ 78% of respondents answered that, compared to the previous Local Government, their newly elected Local Government could increase economic development.

FIGURE 12: Expectations for Economic Development and Taxation (figures in %)



Finally, elected officials in the surveyed LGs expressed optimism and ambition regarding increasing internal sources of income through the identification of and capitalizing on local natural resources. Common agendas include: new construction and or extension of infrastructure, effective and prompt delivery of services, making the village or city clean and green, and facilitation of employment generation through skills development. In particular, the Mayor of Chandannath hopes to increase the prosperity of her municipality through the establishment of herb-based factories, apple refinement centres and the harnessing of a middle ranked hydro project. Meanwhile, the leadership of Bhaktapur emphasise the retention and promotion of its image as a centre of tourist attraction and a hub of quality education. Similarly, elected officials in Janakpur are prioritising developing the Sub-Metropolis as a centre of religious and cultural tourism (see Box 15).

BOX 15: Vision for Janakpur Sub-metropolis

1. Foundation for making the city as a hub of religious tourism through (a) lobbying and facilitating Ramayan circuit project offered by India (b) rejuvenating the city as a centre of Mithila art, culture and tradition.
2. Making it a clean city through (a) sewage and waste management (b) upgrading main and lane roads (c) purification and beautification of ponds in city.
3. Expediting a number of ongoing roads construction projects, including a railway under construction from Jayanagar (India) to Dhelkaber via Janakpur.
4. Quality education and health care through upgrading and monitoring the public schools/campuses and health posts/hospitals.

Civil society activists and elected leaders
 Janakpur
 30 October 2017

CHAPTER 7 SERVICE DELIVERY

Are local governments able to continue to provide and improve services and develop infrastructure?

There is a need for strong local governments who can administer their authority effectively, build their influence, and progressively demand and push for continued growth in the power and autonomy of local governments. These LGs will provide models for other LGs to follow. This will require local government officials who are able to take on new responsibilities, model strong performance, and access platforms to demonstrate their success and promote greater levels of decentralization. In order to play this advocacy role, leading LGs will need to first be locally legitimate. Legitimacy will emanate from success in delivering services and empowering and engaging the local population, including women and marginalized groups. A key area both for generating local legitimacy and increasing the influence of a local government to advocate for more responsibility and discretion will be economic growth.

Ultimately, majority of the population assesses the success of local government by their effectiveness in providing services. This is especially pertinent in Nepal where, as recent *Survey of the Nepali People (2017)* data demonstrates, most people consider the LG to be the primary level of government responsible for local education, health care, and roads.⁶⁸

Increasing local government authority over service provision is pursued in part to reduce the gap between citizens and government authorities, as LGs are considered to be closer to constituents. LGs can induce greater participation of citizens in forums with government agencies to address inadequacies in service provision, which could enhance overall public service delivery.⁶⁹ Also, if local elected officials and bureaucratic officials are mandated with greater responsibilities in urban management, it is expected that citizens will take more interest in elections and apply increasing pressure for more accountable service delivery.⁷⁰ However, the empirical evidence to support the relationship between increased responsibility of LGs over service delivery and actual improvements in service delivery is surprisingly mixed.⁷¹ For example, an under-funded federal government struggling to deliver services may choose to hand over the authority to LGs, even though LG bodies may be even less equipped.⁷² Moreover, even with increased opportunities for public participation, the participation may not yield better access to services due to existing power relationships between constituents and local elites.⁷³ Also, decentralization can provide more opportunities for corruption among local level officials who have increased control over the distribution of resources – unless effective accountability mechanisms are in place.

⁶⁸ 82.9% think that the LG is responsible for the quality of their children's education; 79.2% think it is responsible for local, public health care; 88.7% think it is responsible for building and maintaining local roads. Only between 5.7% and 12.0% think the national government is primarily responsible for those services. See Survey report, pg:53-86TAF (2018a).

⁶⁹ Cheema and Rondinelli (2008).

⁷⁰ Kimr (2008).

⁷¹ Cheema and Rondinelli (2008).

⁷² Kimr (2008).

⁷³ Cheema and Rondinelli (2008).

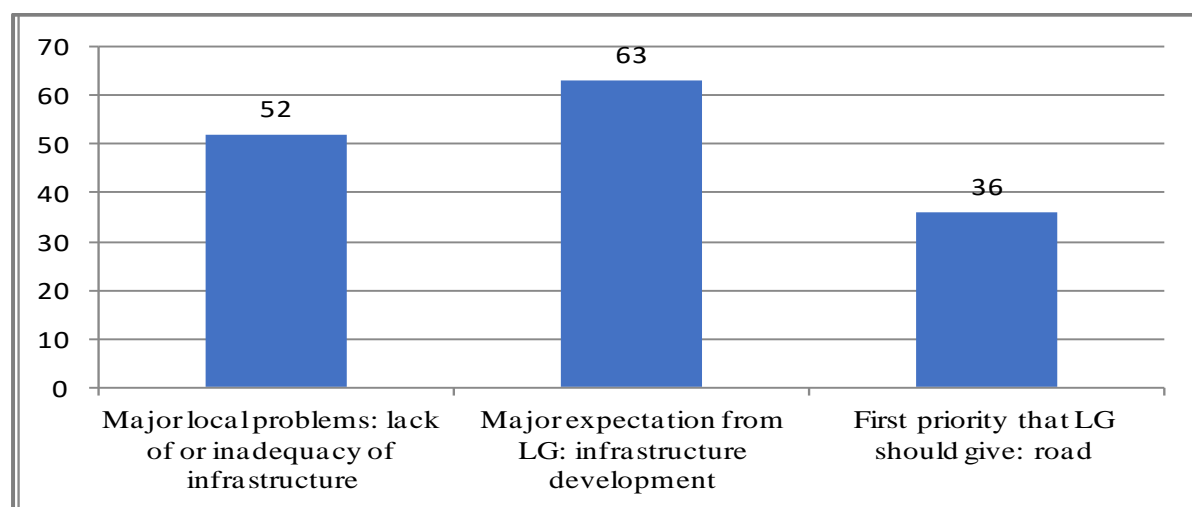
7.1 EXPECTATIONS AND PRIORITIES

INDICATOR 7.1: Are local governments providing and improving services and developing infrastructure projects to meet the demands of their constituents?

The study respondents, including citizens, civil society leaders and elected leaders, expressed an expectation of the LGs to improve infrastructure development and delivery of basic services. The study found that constituents prioritize infrastructure development. This is consistent with findings from the *Survey of the Nepali People (2017)*, which found that basic amenities and public services are seen as the biggest problems for people’s day-to-day lives.⁷⁴ However one shift since previous studies on this issue is that the demand for construction of school buildings and health posts has decreased, but demands for improvements in the quality of services in education, health and drinking water, have increased.

Majority of the respondents in this study identified ‘lack of or inadequacy of infrastructure’ as the major problem in their area. This was the priority expressed across the locations, with the exception of Bhaktapur and Rolpa. Respondents of these two locations expressed ‘the lack of or inadequacy of service delivery’ as the most critical issue. Among the services anticipated from the local government, roads are the highest priority, followed by drinking water, education, sewage and waste management, employment, and electricity.

FIGURE 13: Aspirations for Local Government Institutions (figures in %)

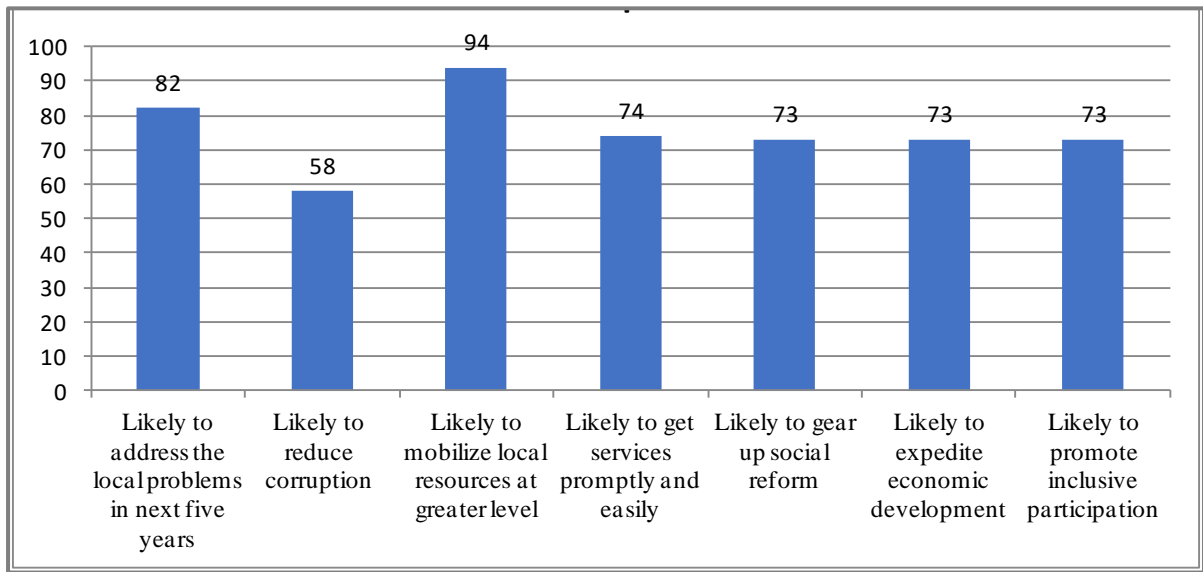


The majority of respondents expressed optimism in their expectations from their LG. Over 90% of respondents expect the LGs to ‘mobilize local resources at a greater level’ and over 80% feel optimistic that the LGs will ‘likely address the local problems in the next 5 years’ (see Figure 14). This is consistent with results from the *Survey of the Nepali People (2017)*, which found that half of Nepalis are optimistic about the positive impacts of local elections. Respondents in that survey reported optimism because there will be more accountable local leadership, public service delivery will be improved, and there will an increased likelihood that community concerns will be addressed.⁷⁵

⁷⁴ TAF (2018a). See also, Hachhethu (2013). In other previous studies, citizens’ demands for and political promises related to infrastructure building were also expressed. See Gaige and Scholz (1991); Hachhethu (2003).

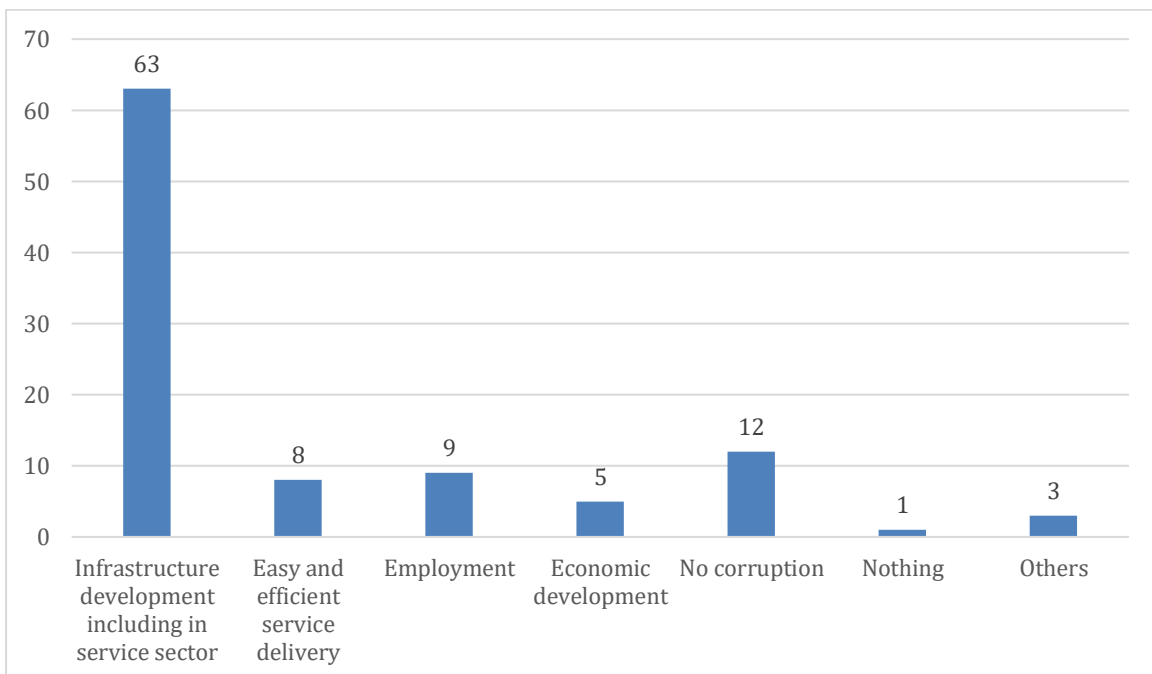
⁷⁵ See Survey Questions F5 and F6 in TAF (2018a).

FIGURE 14: Hopes from Local Governments (figures in %)



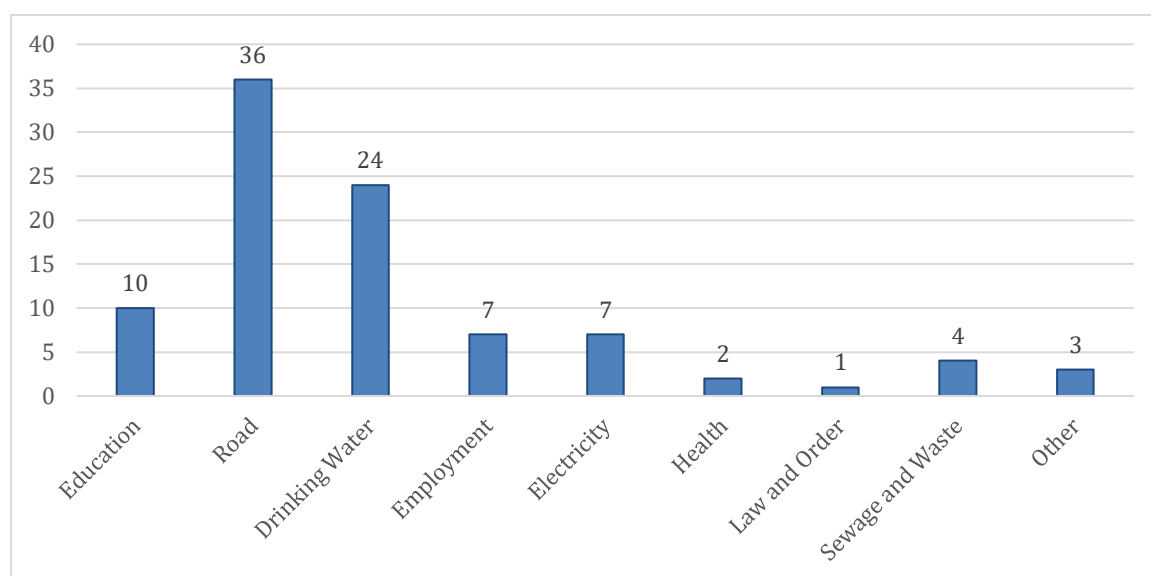
Across both rural and urban areas of the municipalities, more than half of the respondents expressed a need for infrastructure development in a list of ‘major expectations’ from the newly formed Local Governments. Other expectations in preferential order included: ‘no corruption’, ‘employment’, ‘easy and efficient service delivery’, and ‘economic development’ (see Figure 15).

FIGURE 15: Expectations from Local Governments (figures in %)



Respondents identified the repair of roads as the top priority among the options for infrastructure development (see Figure 16). In Sahidbhumi, as many as 82% respondents highlighted the need for roads. This was the priority area in Joshipur, Janakpur and Pokhara Lekhnath as well, whereas majority of the respondents from Bhaktapur and Rolpa indicated that their respective governments should prioritize drinking water. This reflects the fact that Bhaktapur has been suffering from irregular and poor-quality water supply, with only a couple of hours of service in a week. The *Survey of Nepali People* showed similar results with lack of infrastructure identified as the biggest problem in local areas. In particular, in the same categories, respondents to that survey identified local problems and challenges as follows: roads (49.2%), drinking water (26.6%), difficulty in finding work/making a living (16.3%), lack of electricity (12.5%), access to affordable healthcare (7.4%), and poor education access (6.3%).⁷⁶

FIGURE 16: Constituents’ Priority Areas for Local Governments (figures in %)



The study found that the LGs received a bulk of the central grant under the ‘Build Your Village Yourself’ scheme, which was initiated in 1995. As such, the investment in road construction in rudimentary stages was noticed throughout the country. The construction of rural roads (*gramin sadak*) to connect with district headquarters has been one of the priority areas of national planning. However, the impetus for this now includes the integration of the extended territories of the newly formed LGs through a more extensive road network (*sadak sanjal*). The newly elected leaders in the study areas, except in Bhaktapur, expressed a common mission to build link roads within the territories of their respective local governments (see Box 16).

⁷⁶ For the complete range of responses see Survey report, pg:7-19TAF (2018a).

BOX 16: Mergers of VDCS and Need for Roads, Pokhara Lekhnath

Pokhara Lekhnath metropolis is formed by a merger of an adjoining one previous municipality (Lekhnath) and all or most Wards of the then seven VDCs (Mauja, Chapakot, Bhadure Tamagi, Kaskikot, Maghthana, Kalika, and Puranchour) into Pokhara municipality. Hence, this metropolis is constituted by a core city, emerging towns, and peripheral rural areas. Road connectivity is a must to bring such peripheral rural areas into the mainstream of development of this metropolis.

Man Bahadur G.C.
Mayor, Pokhara Lekhnath
6 October 2017

Other variations in the identification of priority sectors include Janakpur and Chandannath. Approximately 30% of the respondents in Janakpur drew attention to the need for sewage and waste management. Respondents of Chandannath gave almost equal weight (29%) to three sectors—roads, drinking water and electricity. There are many houses in this municipality that do not yet receive electricity and piped water.

Expectations of civil society leaders extend beyond infrastructure development. Civil society members hope that their respective local governments will be: (1) clean villages/cities through waste management and drainage; (2) facilitators and generators of employment; (3) committed to preservation of traditional art, culture and historical monuments; (4) promoters of tourism development; and (5) harnessers of potential local resources.⁷⁷

7.2 ACCESS TO SERVICES

INDICATOR 7.2: Do constituents express satisfaction in their access to and in the delivery of services?

The study found that most people do not experience difficulty when accessing basic public services. Most respondents reported that obtaining services from LG was ‘somewhat easy’ or ‘very easy’, with police assistance reportedly being the easiest service to access (see Figure 17). Similar findings were made by the *Survey of the Nepali People (2017)* with regard to obtaining identity documents, securing a place in a primary public school, obtaining medical treatment, getting help from the police, and accessing social security benefits.⁷⁸

There are, however, some area-specific exceptional cases. For instance, a majority of the respondents of Chandannath expressed that it is ‘difficult’ or ‘very difficult’ to get the assistance of the police when they need it. Furthermore, a high percentage of the respondents in Janakpur reported that it is ‘difficult’ or ‘very difficult’ to obtain identity cards from government offices. Similarly, the *Survey of the Nepali People (2017)* also finds that Madhesis are twice as likely compared with other Nepalis to find it ‘difficult’ or ‘very difficult’ to obtain

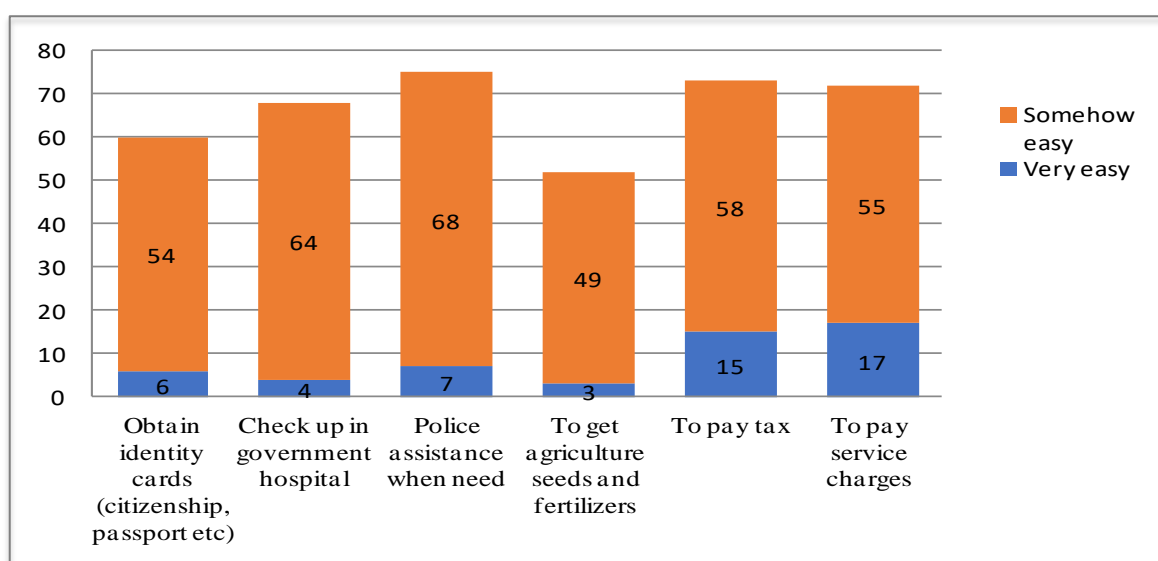
⁷⁷ It is possible that part of reason why civil society thinks beyond infrastructure development is that most participants of the interaction programmes organized during the fieldwork are inhabitants of headquarters of their respective LG. Generally, the headquarters are equipped with availability of basic amenities.

⁷⁸ See Survey report, pg:53-86TAF (2018a).

identity documents.⁷⁹ Additionally, the sentiment that Madhesis find it harder to access government services was voiced in the FGDs organized in Janakpur.

In a Municipal Round Table Discussion, newly elected Mayors, Deputy Mayors along with Chief Administrative Officers from 11 municipalities⁸⁰ across Nepal demonstrated significant efforts to strengthen the wards using whatever resources they have, including providing facilities, equipment and personnel to expand the coverage of service delivery. Across these 11 locations, the heads of the LGs expressed their first priorities as management of local services and development of local roads. These top priorities were followed by health and sanitation; agriculture, livestock and related facilities; basic education; local records management; and local revenue generation.⁸¹

FIGURE 17: State of Service Delivery by Local Government Offices (figures in %)



In terms of the delivery of services, respondents noted that a number of basic services (including drinking water, primary school and health posts, bus services, and parks) are available within 1 km of their houses, while institutions of higher education and hospitals are available between 1-3 km for the majority of the respondents. However, nearly half of the respondents must walk or take transportation for more than 3 km to reach the nearest hospital.

FIGURE 18: Distance to Basic Services (figures in %)

Contents	Contents	Within 1 KM	2-3 KMs	More than 3 KMs
Education	Primary	84	13	3
	Secondary	70	20	10
	College/campus	34	28	38
Health	Health post	61	22	17
	Hospital	27	24	49

⁷⁹ Ibid.

⁸⁰ The eleven municipalities are: Amargadhi, Belbari, Birendranagar, Bhimeshor, Damak, Dhankuta, Ghorahi, Kalaiya, Tansen, Tikapur, Waling.

⁸¹ TAF (2017).

Drinking water	Tap, well, <i>kuwa</i>	93	4	3
Bus stop		58	18	24
Park (open public space)		80	10	10

Regarding service delivery, strengthening the LGs at the ward level will provide an important step in building the capacity for effective service delivery. LG heads in the eleven municipalities across Nepal indicated that strengthening the wards has been a critical focus area, which they would like to continue, since the wards are at the frontline of service delivery. As mentioned earlier, LGs are performing fairly well in the management of local services and the municipal heads want the wards to have the facilities, the equipment and most especially the personnel to deliver services effectively. They mention that the ward is where the staff should be, since that is where citizens get served.⁸² However (as described in Chapter 2) changing the attitudes of the bureaucracy is much more difficult. Many of the current staff members refuse to be posted to the wards and many of the ward offices don't even have secretaries. During the conflict era, most secretaries worked from the district headquarters and the Mayors want to end this practice in this new phase of governance.⁸³

Meanwhile, Ward Chairpersons are entitled to perform a number of functions, however the reality until now is that the Ward Chairpersons have limited their work to *sifaris* (recommendatory work) and the constituents must travel to the higher-level offices to obtain documents (i.e. citizen certificate, passport etc.), pay service charges (e.g. for drinking water, electricity, telephone etc.) and to obtain other services (see Box 17)

BOX 17: Ward Chair Functions, Joshipur

No matter how long the list of WC's jurisdictions is written in the paper in Kathmandu but in reality my WC, meanwhile, as in past before the constituting the new elected LG, is confined to perform following three functions: (1) registration of events like birth, marriage, migration and death (2) issuing certificate of relationship that require to obtain citizenship certificate, passport and other documents and (3) collection of land tax.

Sidha Raj Joshi
Secretary of Ward Committee 5-7
Joshipur
18 August 2017

7.3 CORRUPTION

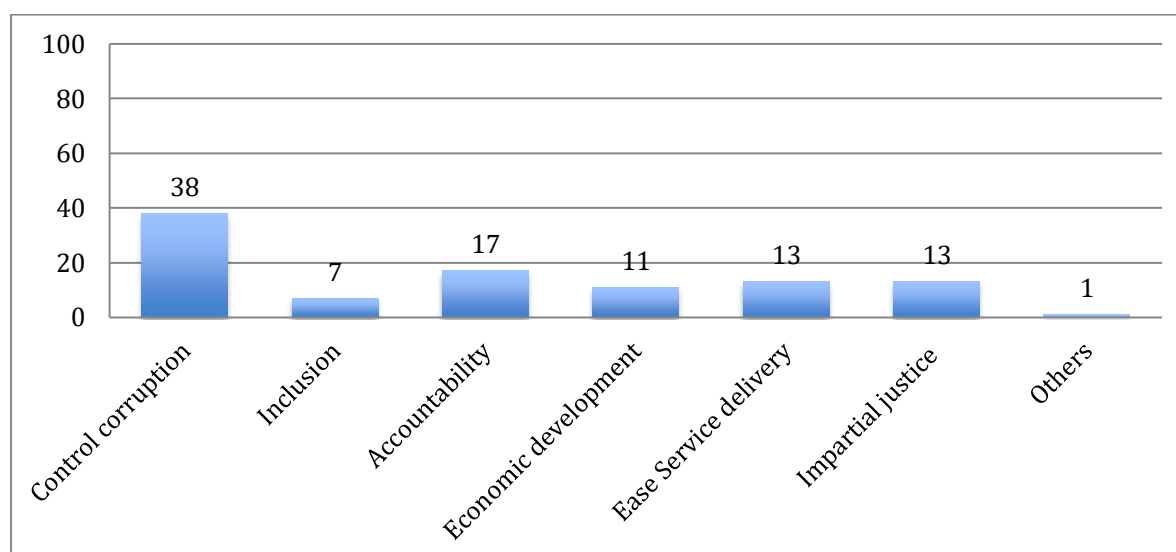
INDICATOR 7.3: Are citizens' perceptions of corruption improving at the local level?

There is divergence of views on the issue of corruption. When asked about the 'most important things for effective local governance', the 'control of corruption' scored highest, followed by accountability, ease of service delivery, justice, and economic development. The issue of controlling corruption was even more important to respondents from three municipalities, Chandannath, Janakpur and Pokhara Lekhnath.

⁸² TAF (2017)

⁸³ TAF (2017)

FIGURE 19: Priorities for Effective Local Governance (figures in %)



A number of respondents identified bribery as an effective means to get services from the local government (see Figure 20). Interestingly, 82% of the respondents of Bhaktapur selected ‘due legal process’ as an effective means to get services from the local government staffs, whereas 77% of the respondents in Janakpur selected ‘bribes’. The majority of the respondents in Sahidbhumi and Rolpa also trust due legal process as an effective means to get services from the local bureaucracy. However, in Pokhara Lekhnath, ‘back up by an influential person’ and ‘favour by a local leader’ take precedence.

FIGURE 20: Most Effective Means to Obtain Services from Local Government Staff – by location (figures in %)

		Bribe	Back up by an influential person	Favour by local leader	Use of agent	Follow law
TOTAL		28	18	15	4	35
Area	Rural governments					
	Sahidbhumi	8	26	6	0	60
	Joshiपुर	28	18	16	4	34
	New municipalities					
	Rolpa	3	21	23	2	51
	Chandannath	43	27	16	7	7
	Established and extended municipalities					
	Janakpur	77	6	4	8	5
	Bhaktapur	6	10	1	1	82
	Pokhara Lekhnath	11	25	30	5	29

Region-based disaggregated data shows a clear distinction. Except in Janakpur municipality respondents placed the legal process above all other factors as a means to get service from the local bureaucracy. However, 77% of respondents in Janakpur claimed that with ‘no bribe, no work’ would be possible at government offices.

CHAPTER 8 FUTURE RESEARCH

This report, the *Diagnostic Study of Local Governance in Federal Nepal 2017*, provides an overview of the critical issues that have emerged for local governments during the initial stages in the transition to federalism. The research for this study was undertaken less than six months since LG elections in order to assess the challenges that the local governments are facing in the early stages of transition as the national policies and procedures are put in place. The study identifies key issues to track going forward that provide insight on the extent to which the constitutional vision and objectives are being met. The indicators identified in this study take into account how local governments are constrained or enabled by institutional and bureaucratic structures, the legal and political environment, and fiscal potential; and the extent to which local governments address inclusion of women and minorities and meet the objectives of service delivery. Therefore, the critical questions that this study asks are the following:

1. *Are the institutional, legal, political, and fiscal frameworks in place to enable local governments to discharge their constitutional mandates?*
2. *Are local governments facilitating an inclusive environment and meeting their objectives for service delivery and provision of infrastructure?*

This study draws upon primary and secondary data to provide an overview of the issues that have emerged and to support the formulation of the set of indicators for future research. This study will be followed in the future with in-depth studies to describe progress and emerging challenges for selected indicators. The indicators developed for future research are described below according to the categories of analysis.

Institutional and Bureaucratic Constraints

It is critical that the national institutions and bureaucracy are reorganized in the spirit of the new *Constitution* with shared powers assigned to the three levels of government. In Nepal, the bureaucracy has played a dominant role in local government, due to the instability of the political situation over the past two decades. As such, the overarching question is *whether institutional and bureaucratic constraints hinder local governments from meeting their mandates?* Indicators for future research include whether the bureaucracy is effectively redeployed at the local level and whether the bureaucratic and elected officials achieve a balance of power.

INDICATOR 2.1: Are local governments adequately staffed to enable them to effectively discharge their functions?

INDICATOR 2.2: Do elected and bureaucratic local government officials express that they are satisfied with the balance between bureaucratic authority and political power?

INDICATOR 2.3: Are constituents satisfied with local government institutions?

Legitimacy and the Legal Environment

A number of areas of legislation are required to empower the newly formed LGs to become operational. In addition to drafting and passing critical new legislation, the country's existing legal frameworks require wholesale revision and amendment to ensure uniformity and to address inconsistencies with the *Constitution*. This is essential to enable local governments to operate. Furthermore, LGs will need to draft more than a hundred laws simply to have adequate clarity to execute their functions. Each of these laws must be assessed for consistency with the Constitution and with other laws before they are effective. Therefore, the indicators that provide insight into the legal barriers to effective local governance and progress towards a supportive legal environment include tracking legislation at the federal and local levels, and which support local justice mechanisms.

INDICATOR 3.1: Have the legal frameworks required for local governments to be operational and effective been institutionalized?

INDICATOR 3.2: Are local governments independently developing and enacting sufficient legislation for, and providing effective regulatory oversight over local public services?

INDICATOR 3.3: Is there enough clarity and support for judicial committees to execute their operational and functional responsibilities?

Political Environment

Political parties are inherently top-down and hierarchical in nature. This is certainly the case in Nepal where the country's political parties are highly centralized entities, which are structured such that higher central committees dominate and direct the parties' lower local organization. For the successful devolution of power locally elected officials must exercise autonomy in decision-making and debate and contest laws that impede local government interest. The overarching question regarding the political environment include whether *the political environment is enabling of local governance such that locally elected officials debate and contest laws that impede local government interest?* Indicators that will shed light on this question include the extent of internal restructuring of political parties, the culture of debate and working toward the greater public interest, the dispute settlement mechanisms within the government structure, and the capacity of local government officials to engage in policy making.

INDICATOR 4.1 Have political parties internally restructured to reflect the federal nature of Nepal's new governance structure

INDICATOR 4.2 Do local government officials from different political parties express that political deliberation is effective and do constituents observe reduced political collusion at the local level?

INDICATOR 4.3: Are mechanisms designed to settle disputes between the different layers of government being utilized?

INDICATOR 4.4: Do locally elected officials have the capacity to fulfil their mandates and to enter into and contest ideas in the policy arena?

Inclusion

A significant goal of the national government for a ‘new Nepal’ is to restructure the Nepali state in the spirit of inclusive democracy. While the 2015 *Constitution* includes provisions for women and other marginalized groups in all levels of government, these alone are unlikely to be effective in improving the quality of representation and meaningful participation for these groups. A very important issue to understand is whether inclusiveness of women and minorities, as mandated in the Constitution, being adequately addressed by local government. The indicators to evaluate positive steps towards greater inclusion include constituent support for and assessment of inclusion practices and whether women and minorities are able to participate in local government policy-making.

INDICATOR 5.1: Do constituents continue to express support for the government commitment to inclusion?

INDICATOR 5.2: Have women and minorities taken on responsibilities in the local government and developed and instituted policies to increase inclusion?

INDICATOR 5.3: Do constituents express that the local government does not discriminate based on caste, ethnicity and/or gender?

Financing the Future

One of the most important factors in the ability of local governments to effectively operate lies in their financial capacity. However, significant challenges with regard to subnational expenditure have emerged, and the major question remains as to whether the local governments have adequate financial resources and fiscal autonomy to meet their budgetary needs and aspirations. A number of data points must be assessed regarding local government fiscal capacity, including whether local government revenues meet expenditure requirements and whether they demonstrate capacity to raise their own-source revenues.

INDICATOR 6.1 Are Local Government revenues adequate to meet their expenditure requirements?

INDICATOR 6.2: Do local governments show an increase in their own-source revenues (as a per cent of total local government budget)?

Service Delivery

Ultimately, majority of the population assesses the success of local government by their effectiveness in providing services. Increasing local government authority over service provision is pursued in part to reduce the gap between citizens and government authorities, as local government is considered closer to constituents. Whether or not LG are able to continue

to provide and improve services and develop infrastructure will be critical to the success of the new governance structure.

INDICATOR 7.1: Are local governments providing and improving services and developing infrastructure projects to meet the demands of their constituents?

INDICATOR 7.2: Do constituents express satisfaction in their access to and in the delivery of services?

INDICATOR 7.3: Are citizens' perceptions of corruption improving at the local level?

Future research would examine, in greater depth, the progress along the lines of the indicators described above to provide insight into the transition to federalism in Nepal. In particular, research may choose to assess some of the indicators based on local government service provision in selected sectors, such as *health, education, water and sanitation, and roads*.

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Annex 1: Research Design – Primary Data

1. Sampling

This study was carried out in seven locations. The local governments selected for this study reflect and represent diversity of Nepal in many respects, i.e. (a) Ecological (mountain, hill and tarai), (b) Provinces of federal Nepal, (c) Ethnic settlement and background of elected chief executive (Khas Arya, Janajati, Madheshi, Tharu), (d) Sex of elected chief executive (male and women), and (e) Influence of political parties in terms of result of LG (national, ethnic/regional and small political parties).

Table 1: Diversity of Study Areas

(1 Metropolis, 1 Sub-Metropolis, 3-Municipalities and 2 Rural Municipalities (Gaunpalika)

No	Sampled LG	Ecology	Province	Leadership (Mayor/chairperson) by			District
				Gender	Social Groups	Party Influence	
1	Sahid Bhumi	Hill	P-1	M	IPs (Rai)	UML	Dhankuta
2	Janakpur	Tarai	P-2	M	Madheshi	RJP-N	Dhanusha
3	Bhaktapur	Hill	P-3	M	IPs (Newar)	NWPP	Bhaktapur
4	Pokhara Lekhnath	Hill	P-4	M	Khas Arya	UML	Kaski
5	Rolpa	Hill	P-5	M	Khas Arya	MC	Rolpa
6	Chandannath	Mountain	P-6	F	Khas Arya	NC	Jumla
7	Joshiपुर	Tarai	P-7	M	Tharu	NC	Kailali

Table 2: Population and Area of the Study Areas

No	Name	Population	Area (sq. km)
1	Sahidbhumi	18,760	99.55
2	Joshiपुर	36,459	65.57
3	Rolpa	32,759	270.42
4	Chandannath	19,047	102.03
5	Bhaktapur	81,728	6.89
6	Janakpur	170,491	93.58
7	Pokhara Lekhnath	414,141	464.24

2. Research Tools

The study adopted a wide range of research tools.

2. A: Structured Questionnaire

A structured questionnaire was administered with 1,100 respondents, sampled systematically from the voter list of a total of 44 sampled clusters from the selected 7 LGs. In addition to demographic (social, economic and political) backgrounds of the respondents (to be used for cross tab of data), the questionnaire includes around 100 questions to capture perceptions of

ordinary people on five broad themes: (a) access to and expectation from the newly formed elected LG (b) trust in and evaluation of actors/institutions involving in local governance with different capacities (c) state restructuring and inclusion (d) state versus society, and (5) participation in election and local governance.

2. B. Qualitative Interview

The study undertook qualitative interviews with a total 70 key actors, including 35 elected persons and 35 bureaucrats. By adopting this research tool, the study attempts to understand the nature and attributes of local leadership through exploring their background (social, economic and political), motivation, vision and policy. It indeed captures their own experiences on different aspects of local governance (i.e. service delivery, policy formulation, coordination with civil society and line agencies, constraints and achievement) at initial phase of taking role as peoples' elected representatives. It also finds out experiences of the LGs bureaucrats on several fronts, i.e. professional background, motivations to work in LG, relations with elected persons, and difficulty facing at transitional period.

2. C. Interaction with Civil Society

The study organized a total of 7 interactions with civil society (one in each selected LGs), representing different walks of life, i.e. elected representatives, local party leaders, bureaucrats, civil society members, academics and professionals. The questions for such interactions included: (1) vision of their own LG in next five years followed by policy recommendations, (2) Issues of public concerns and ways to address these (3) priorities of economic development and resources, available and potential (4) participation and coordination of both formal and informal organizations involving in LG, and (5) major constraints and achievement.

2.D. Focus Group Discussions

The study conducted 7 FGDs (one in each selected LGs). It explores the state of inclusion of Dalit, women and minority in each of seven selected LGs. Participants were asked to give their perception and experiences about inclusion of given three social categories on five broad questions: (1) representation (2) participation (3) key agendas (4) constraints and (5) prospect of empowerment.

2. E. Leadership Profile

The study prepared personal profile of elected leaders of seven selected LGs that include their backgrounds (i.e. sex, age, education, marital status, occupation, religion, mother tongue, caste/ethnicity, class, family background and party affiliation).

The field work was carried out over three months from August - November 2017 for above mentioned research tools. The study collects opinions of around 2158 persons on several aspects of LG.

Table 3: Number of Respondents and Participants Included in the Study

No	Name of LG	No of respondents/participants					
		Survey	Interview	Interaction	FGD	Personal profile of elected leaders	Total
1	SahidBhumi Rural Municipality	100	10	53		43	206
2	Janakpur	200	10	34	32	135	415
3	Bhaktapur	150	10	48		57	265
4	Pokhara Lekhnath	250	10	30	43	175	508
5	Rolpa	150	10	33	22	60	279
6	Chandannath	150	10	39	30	60	289
7	Joshiपुर Rural Municipality	100	10	51		43	204
Total		1,100	70	288	128	573	2,158