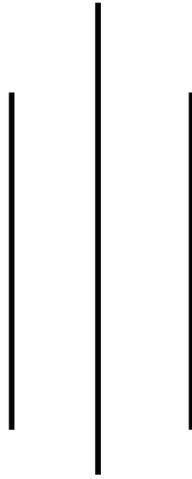


# State Restructuring and Issues of Local Self Governance in Nepal



**Association of District Development Committees of Nepal  
(ADDCN)**

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## 1. Background

In course of institutionalizing the aspirations expressed by the great Nepali people in the People's Movement 2006 and its achievements, the Interim Constitution of Nepal 2007 has been promulgated. During this period of its promulgation, the people from every region, caste and community have become proactive, enthusiastic and agitated in order to ensure their role, rights and position in the governance now onwards. As a result, the constitution got its first amendment no sooner had two months elapsed since its promulgation and the second amendment in the fifth month of its promulgation.

The Interim Constitution of Nepal has set a directive principle and some objectives of state restructuring. According to this, Article 33(4) has made a provision that there will be progressive, inclusive and democratic state restructuring to end the existing centralized and unitary structure of the state including all discriminations based on class, caste, language, gender, culture, religion and region, which are inherent in the responsibilities, directive principles and policies so as to address all problems including the problems of women, Dalits, indigenous people, ethnicities, Madheshis, the deprived, marginalized and minority communities and backward regions. Likewise, after the second amendment of the Constitutions, a new article 33 (GHA1) has been added a provision that all sectors like Madhesi, Dalits, indigenous people, ethnic communities, women, workers, peasants, handicapped people, backward classes and regions shall participate in every organ of the state structure on the basis of proportional inclusion.

Similarly, Article 34(2) of the Constitution has mentioned that the objective of the state will be to promote public interest by preserving and protecting human rights and maintaining law and order in the country and to create a condition in which people could take benefits of democracy from the opportunities available to them for their maximum involvement in the governance through self governance.

Likewise, Article 138 of the Constitution making some changes in the existing provisions, by the first amendment, regarding state structure and local self governance, has provisioned that there will be progressive restructure of the state by ending the unitary and centralized state structure in order to abolish all discriminations regarding class, caste, language, gender, culture, religion and region and the Constituent Assembly will make final decision on the issues of state restructuring and about the form of the federal system of governance.

In the context of constitutional provision on state restructuring by incorporating the inclusive and federal democratic governance to end the centralized and unitary structure of state and the form and content of such restructure be determined by the Constituent Assembly, it is necessary to come to a common conclusion about the issues of interest of all communities after intensive discussion thereon. Though some political parties have formally decided on the issue of future

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structure of the state, all parties have not furnished their stand formally on this issue and a common vision is yet to be formed among all parties.

What steps to be taken for making people more powerful to restructure the state in a progressive manner? What helps restructure the state mechanism so as to promote general welfare of the people? and how can this process be made more participatory and inclusive?, Taking creative initiatives on all these issues are urgent from all stakeholders including the political parties, law makers and the representatives of the civil society to get progressive, sustainable and affirmative solutions of the existing problems with mutual political consent.

## **2. State Restructuring: Why and How ?**

The mission of state restructuring has already been set as per the letter and spirit of the Interim Constitution. In this context, despite the constitutional provision that the state shall be restructured progressively to make it more inclusive, democratic with federal system to end all kinds of discriminations based on class, ethnicity, language, gender, culture, religion and region, a common national consensus has to be built by intensive homework and discussion on the issues like what procedures and methodologies can be followed to maximize peoples' rights? By what modus operandi can the state be made economically, politically and socially prosperous and which methods and processes can be instrumental to abolish the inequalities based class, gender, caste and language and discriminations from our society. Viewed from this perspective, the universal norms and values of civilization of the 21st century, human rights, human development and inclusive and self governance etc must be transformed into our own context and the state must be restructured for institutional development of all these aspects.

### ***2.1 Restructure for the end of feudal social structure and development of democratic system:***

The crux of whole issues of today lies on whether the age old or 239 years old autocratic monarchy of Nepal holds any significance or not. Nepal's monarchy has a strong desire of active rule supported by the unsocial elements (bourgeoisie elites and ultra religious groups) founded on feudalism than on peoples' will and support. Therefore, on the direction of ending such monarchy and establishing a democratic republic, the present state must be restructured for institutional development of the democratic republic with appropriate constitutional and structural arrangements so that peoples' sovereign power could be exercised by the communities and villages from the grass root level and the monarchy (with or without crown) couldn't get chances of kidnapping the peoples' rights any longer.

### ***2.2 Some clarifications on Unitary state, Federalism and Local Self Governance***

The Interim Constitution of Nepal 2007 has a provision regarding restructuring of the state according to the concept of democratic federal system by ending the centralized and unitary state structure but it hasn't been concluded yet about the overall structure of the state. In the context of restructuring Nepalese State, it can be an abstract matter to talk only about the federal system alone. The issues of establishing the local self government units and devolution of rights and duties to local level also come together with the issue of state restructuring. These issues of local self governance and local government are equally compulsory and practical even in the federal structure of the state.

Today's discussion should not trap itself into the choosing the nomenclature and forms - unitary state or federal state; but it must focus on the substantial issues like how and what can be the overall structure of state, on the layer and number of governments and which rights to be guaranteed for the governments of the particular layers.

Four kinds of state systems are followed in the world on the basis of functions, power and its practice,. They are:

1. Centralized unitary state system.
2. Devolved unitary state system.
3. Federal state system.
4. Confederal state system.

### **Centralized unitary state system:**

A state system in which the power is vested on the central government and parliament is known as the centralized unitary state system. In this system, only the center exercises the Legislative, Executive and Judicial power. In this system, there is a centralized administrative control, central budget system and central planning system. The Nepalese system practiced till today is under the central unitary state system. Decentralization depends on the will of the centre and there may be a deconcentration and delegation of authority to some extent. Though, devolution has been accepted in principle in Nepal after the Local Self Governance Act became effective, in practice it was limited to the delegation and deconcentration of authority only. It is merely an extended form of the central federal system into the local level. In such decentralization, the responsibilities and accountabilities remain with the central government. For example, the observation of the form of Nepal's current decentralization shows that the secretary of the Ministry of Local Development will be punishable if the financial irregularities under any local bodies are not cleared and the secretaries of other line ministries will be punishable in case of non clearance of the financial irregularities under the concerned district level offices.

### **Devolved unitary state system:**

Although, the unitary state system is adopted in this system principally, there is a provision of civil governance by providing maximum power, functions and rights to the local governments closer to the local people. According to Ulrich Cloety, professor of Zurich University, devolution is related to dual federalism. In this system, there is a division of work, duties and rights constitutionally among the elected local government units (Local Governments) and the government of the upper level. This system allows a provision of the local governments fully responsible to people and powerful for all functions under their jurisdiction and such governments are elected directly by people themselves.

Under this system, the local governments are autonomous as specified by constitution and laws of the land to fulfill their duties and responsibilities with rights of making laws, formulating policies and programs, taking political and administrative decisions, mobilizing and managing the financial resources (levying and collecting taxes), defining administrative organizations and appointing their own human resources as required.

In this system, an arrangement is made to ensure that the local government agencies including citizen, community and local communities could exercise their rights freely and complete all functions promptly from the specified level as per the concept of subsidiarity principle. This is a participatory system based on local

democracy in which the central governments take responsibilities of the large scale plans and financial tasks having wider constraints, which are impossible to perform by the lower level governments. Normally, in this system, it is assumed that all functions of the state are carried out by the local autonomous governments except the formulation and implementation of the monetary policy, foreign policy and international relations, defense policy for which the central governments are responsible. The Scandevian countries of Europe: Denmark, Sweden and Norway which follow this system are the best examples.

### **Federal State System**

While discussing about the federal state system, there is lack of conceptual clarity regarding the issues such as; what is the basis of establishing the federal states? Are the foundations which prepared and discussed so far on this issue enough, appropriate or inappropriate? Why do we opt for the federal system? What is the size and number of the federal states? What are the rights and duties of the federal states? Will there a single constitution of all states or separate constitutions for each state? Will all local governments under the federal state enjoy different types of autonomy and rights or have equal rights? What are the management modalities of allocating the resources and How to manage the intergovernmental allocation of financial resources? Will there be right to self determination to be free from the state or nation?

In the debate of state restructuring, some political parties and sectors have made their opinion public by arguing that Nepal must follow a racial federal system or a federal system with its originality by incorporating Nepal's own specific features. No clear opinions have become public on what are the fundamental features of racial autonomy and how would it be formed? Similarly, no clear framework of federalism has been public by considering various aspects such as Nepal's specific geography, demographic structure, physical infrastructures, social and economic relations etc. This issue has not been a topic of common political consensus. In this context, it is necessary to conclude about this issue by analyzing the weaknesses and strengths of federal system or unitary system minutely.

According to Robert D Stale, the chief economist of the World Bank Institute, "federalism is a special condition; it is a state system existing as an agreement between centralized state and absolute decentralization. Federalism needs five components like hierarchy, government in lower layer, common market, strict budget system and institutional authority. (Kandel Puspa)

Currently, 26 countries of the world are found to have adopted the federal state system. These countries are Argentina, Australia, Austria, Belgium, Bosnia/Herzegovina, Brazil, Canada, Covoras, Ethiopia, Germany, India, Iraq, Malaysia, Mexico, Micronesia, Nigeria, Pakistan, Russia, Saint Kits/Nevice, South Africa, Spain, Sudan, Switzerland, UAE, USA and Venezuela.

Federal System originates in two different ways. Firstly, different independent states agree to form a federal state and it is termed by the experts as a process of coming together for federalism or confederal system Switzerland and United States belong to this kind of federal system. Secondly, the centre is transformed into a federation by creating regional autonomous states in order to protect the racial, lingual and cultural diversities and decentralize the governance into the lower level. This is known as a holding together federalism or federal system. On the basis of their origin, federal state system can be classified into following two groups:

### **Federal State System:**

Theoretically, this system is defined as a state system in which the lower level governments under the central government can exercise certain rights guaranteed by the constitution and such governments don't need to depend on the centre. Under this system, no independent states or nations form their federation but the integrated states themselves make arrangements to decide about the basis of forming federation, about the nature and type of rights to be provided to states or provinces, constitutionally. The countries like India, Australia and South Africa have adopted this system.

### **Confederal System:**

This is a state system in which the central governments get power from the autonomous state units. The presence of the government units willing to get the status of autonomous states is the precondition for this system. Such autonomous states form a federation by entering into an agreement and accepting to unite together under an umbrella of federation. This is a system with a center and multiple states as units. In other words, this is a state system in which the states or provinces are more powerful and autonomous than the federation. In this system, there is a mandatory provision of two governments, one in the centre and another in the regions or provinces or states.

### **Diversity of foundations of the federal system**

There are also diverse views about what can be the foundations while forming a federation. Different countries have formed different federations on the basis of the factors by choosing one of the bases among the topography, race, language and natural resources. India and Switzerland have taken language as a basis of federation and Nigeria and Ethiopia have based their federation on race. Likewise, Belgium and Cyprus have formed the non- geographic racial federation.

Saint Kits/ Nivas, which has an area of only 269 square kilometer and has total population only 46,000, is under federal system and India which has more than very big population of 1.06 billion people also has followed the federal system. Germany which has only one language, is under federal system whereas there is also a federal system in South Africa where there are more than ten languages in use. Russia with the largest area of land has adopted federal system and the smallest country like Micronesia also has adopted the federal system. Malaysia, Belgium, Australia, Canada, Spain, UAE, Saint Kits/ Nivas, all with a monarchy, have adopted federalism and the countries with parliamentary or presidential system have also followed federal system. The countries like Argentina based on catholic religion are under federal system. Switzerland which adopts federal system of a competitive nature has a high standard democracy but there is a military autocracy in Pakistan which has similar types of federation as in Switzerland.

### **Nomenclatures of the federal units**

Since the federal units are called "States" in Australia, Ethiopia, India, Brazil, Mexico, Nigeria and United States of America, such units are known as "provinces" in Canada, Pakistan and South Africa. These units are called "Lender" in Austria and Germany but "Cantons" in Switzerland and "Regions" in Belgium.

### **Structural Diversity of the Federal Executives**

There is a presidential system in USA, Argentina, Brazil, Mexico, Venezuela and Nigeria. Parliamentary system in Australia, Austria, Belgium, Canada, Ethiopia, Germany, India, Malaysia, Spain, Switzerland and there is a Mixed System in South Africa.

### **Context of Federalism and Self Determination**

Due to its special characters, rights to self determination and be free from the federation are inherent in the federal system but in the contemporary world no country with federal system has exercised rights to self determination to its federal states to be separate. Federalism refers to a concept in which there is an pre-existence of autonomous nation-states, right to formulate and execute laws (Constitution, Acts) as per the limited constitutional and legal provisions, a right to be free from the federation at will and dissimilarity in the jurisdiction of the local bodies under each federal state. There is no absolute federalism currently in the world due to the fact that even in America and Switzerland where absolute federalism has been adopted, there is no practice of such federalism having right to self determination to be free at will from the federation. But it can't be argued that a particular class or race only can practice this right because right to self determination consists of political, economic, social and cultural rights which all citizens of a country deserves to and can practice at their will.

Today, there are about 170 countries under the unitary state system and 26 countries have adopted the federal system. If some decades of the recent past are observed, only an insignificant number of countries which have adopted unitary system in place of federal system and vice versa accept some countries like Slovakia, Czech Republic, Croatia, Uganda which have opted for unitary system after getting separate from Yugoslavia and countries like Belgium and Iraq opting for federalism instead of unitary state system.

#### ***2.3 Local self Governance and government in Federal and Unitary State System:***

In most of the countries of the world today, there is a practice of local self governance of various forms in the countries whether they are under unitary system or federalism. But the power and responsibilities of the local autonomous governments is more power in some countries and fewer power in other countries whether they have federal or unitary system. *After the decade of 1990s, most of the countries in the world have given a clear message by experiencing their full commitment to the local self governance by making constitutional and legal provisions that the establishment of democratic local self governance and development be the civilization of the 21<sup>st</sup> century.*

Traditionally, it is believed that the province or state governments of the countries under federal system can only practice more power and autonomy than the other decentralized units on the basis of autonomy but recently, after the unitary states also started , by law or practice, to provide similar rights and autonomy to their sub national units as the federal states, due to this, it is difficult to pick up the fundamental conceptual differences of the unitary system and federalism on the basis of legislative, executives, financial, administrative and judicial rights of the sub national units.

While judging with birds eye view, it can't be pinpointed which system- federal or unitary can decentralize more power to the lower level. In the current debate on restructuring of power, some people define the unitary system as a centralized state system with feudal monarchy of the past. The others have understood it as a form of the previous state with the centralized concepts and the foundations accordingly built upon. Though the subject matter of a decentralized unitary state system based on devolution with democratic structure has the feature of the welfare

state, this has been a minor issue of debate for current state restructuring. Some people also have an understanding that there is decentralization, guarantee of people's rights and the devolution of power down below the sub regional units in federal system automatically; these concepts are not self justifiable ones.

Similarly, it is always a relative than an absolute question to ask whether federal or unitary state system is beneficial from the perspectives of the rights and duties of the local self governments. There is no similarity in all countries with federal system and in all countries with the unitary system on the basis of rights and responsibilities entrusted to the local self governments. Federal system can mainly be divided into collaborative federalism, competitive federalism, dictated federalism and permissible federalism on the basis of rights, duties and responsibilities. Germany, South Africa, United States of America, Venezuela etc are under the collaborative federalism and Belgium, Austria, Brazil, Micronesia, Switzerland etc are under the competitive federalism. Likewise, Nigeria is under the dictated federalism and Australia, The republic countries like India, Malaysia, and Mexico etc are under the permissible federalism. From the collaborative federalism in America, competitive federalism in Switzerland and forced federalism in Nigeria, it is clear that there are various forms of federalism. There is no similarity among the federal states in all countries with the federal system on the basis of political, economic and legal rights. Similarly, in federalism too, there are unitary states like Denmark, Sweden, Norway, Macedonia, etc where the high level of local autonomy, rights, duties, responsibilities are ensured as in the countries with high level local autonomy and the countries like ours with power based on the centralized structure. In this way, the issue of making people powerful down from the grass root level and local self governance is a matter of political commitment than the political system of a state.

Today, on the basis of power and autonomy, the states under both federal and unitary system, have mixed characters of both systems than the characters of only one system. In all countries, whether they have federal or unitary system, they have more or less similar kinds of system, function, right and duties for local government, quantitatively and qualitatively. Some countries adopting unitary state system have formed their provinces, regions or states above the local governments to show the feature of federalism, in order to preserve the positive aspects of federalism or unity in diversity in a cordial, sustainable and effective manner according to their own specific features. The countries like England, China, Philippines, and Tanzania with unitary system have formed state structures successfully by providing more power and autonomy to local autonomous, provinces and regions than the federal states like India and Australia under the permissible federalism. The Zanzibar autonomous province of Tanzania elects its own president. Two systems in a province in China and the Mindanao autonomous provinces of Philippines are examples of the similar forms of federalism under the unitary system. The autonomous provincial governments of Wales, Northern Ireland and Scotland in England can issue and use their own currency even under the unitary system.

### **C. End of centralized political system and institutional development of inclusive democracy.**

In the time of limited democratic practice of the past, our political system couldn't be participatory. The discriminations and inequalities based on race, class, region, language and gender couldn't help materialize the common people's will for social justice. Thus, the current state must be restructured to end the centralized and non participatory political system of the past, to transform the political system into

devoluted and inclusive system and to make the participation of common citizen, nationalities, gender, class and region on the governance broader than it is.

### **1. Class. Economic, social and regional inclusion:**

Nepalese society is discriminatory on the basis of economic, social and political development. There is a big gap between the people from the poor and rich class, people from economically deprived and prosperous class, and people from less developed and more developed regions.

Economic inclusion is a serious issue linked with the issue of class. Since this issue has been confined to the political propaganda and there are no concrete initiatives to address, this issue has changed into the racial issue. Nowadays, there are two types of citizens in our society. Some people have their meal all the time but the others have meal only when they are fortunate to get it. There are 1 million 20 thousand and 280 landless families in Nepal, 200 thousand people lack a tiny plot of land and there is a majority of the *Dalits* (down trodden) people in the number of landless people. Among the *Dalits*, hundred percent landless people belong to the Hudkes and 88% landless people belong to the Doms. Due to Hindu caste system, most hardworking class of the people has been labeled as Dalits and untouchable and there is still a discrimination against them. There is meaningless participation of these people in the political, social, economic and cultural sectors. In addition to this, other classes and castes are also very backward.

Democracy also refers to a just and equal society. Where there is too discrimination on the basis of class, the primary objective of democracy is naturally to end such discriminations. In this context, it is good to recall the thoughts of a well known Indian economist, Amartya Sen who, referring to the Indian democracy, opines: "How a country can be democratic in nature, if there is a gap of 90 times between the rich and poor. Thus, the real solution of this problem can be found by maintaining economic, social, political and cultural inclusion from very root of the local governance level." The people of Scandinavian countries like Denmark, Norway Sweden etc are believed to have been the happiest people because of the socialistic economy they have adopted.

United State of America has managed a trust land for the indigenous red Indians, Eskimos Aleuts including the other nationalities. The Philippines has distributed land for the backward communities of the indigenous people in the 1990s. There is still a struggle for this in Zimbabwe, Mozambique, Namibia, and in the African countries. Taiwan, Japan and South Korea have ended the production relations based on feudalism through land reform programs. These examples can be useful to design our future economic policies.

### **Regional inclusion in economic sector:**

On the basis of economic empowerment index, Central Region has the highest position with 0.338, Eastern Region 0.369, Western Region 0.317, Mid Western Region 0.247 and Far Western Region has 0.268. On the basis of human empowerment index, Central Region has 0.497, Western Region 0.461, Eastern Region 0.486, Mid Western Region 0.393 and Far Western Region has 0.399. The per capita income of Eastern Region is 1202, Central Region has 1557, Western Region 1254, Mid Western Region has 988 and Far Western region has 1079. On the basis of gender empowerment index, Eastern Region has 0.382, Central Region has 0.407,

Western Region has 0.395, Mid Western Region 0.368 and Far Western Region has 0.368. The per capita income of Kathmandu is Rs. 3438 but Dailekh has only Rs. 679.

### **The status of unbalanced distribution of resources:**

If we analyze the central governments statement of income and expenditure for the Fiscal Year 2061/62, we can find that out of total income of Rs. 70 billion and 580 million, 11.18% from the Eastern region, 77.09%, from Central Region, 8.85% from Western Region, 1.85% from Mid Western Region and 1.03% from Far Western Region has been collected. Similarly, out of the total expenditure of Rs. 102 billion and 560 million, 39% has been spent for development expenditure and 61% for recurrent expenditure. Out of total development expenditure, Central Development Region has got the highest amount of about more than 85% but only 2% or the lowest amount, has been spent in the Far Western Region.

If we analyze on the basis of the total population as per the census of 2058 B.S, we can find out that the central government has spent Rs. 2713 per head in the recurrent expenditures and Rs. 1797 only for development expenditure. Out of total development expenditure, Rs. 4364 per head, which the highest expenditure, has been spent in the Central Region but only Rs. 322 has been spent in the Eastern Region. Similarly, Rs. 382, Rs.582 and Rs. 467 for Western, Mid Western and Far Western have been spent respectively. In short, it is clear that there is no balanced distribution of financial resources in the existing centralized state structure. Even after the lapse of 50 years of planned development system, Nepal has not changed its position of the poorest country of the world.

While analyzed on the basis of human development index, the adult literacy of Kathmandu is 73.50% whereas it is only 19.60 % in Humla. Average life expectancy in Bhaktapur is 71 year but it is only 44 year in Mugu.

## **2. Racial Inclusion:**

The issue of racial inclusion refers to the right to participate and get involved without any discrimination into the social, economic, political and cultural practices of national development with self respect and social dignity and right to end the racial discrimination. Though development isn't directly and absolutely correlated to ethnicity, if the social life style of a particular race has been dominated by inequality, oppression and negligence in comparison to other races, there can't be meaningful participation of such classes in the development mainstream and it can hamper the overall development process of a nation.

### **Why racial inclusion?**

When we review the status of racial inclusion of the past, it is revealed that the representation of the listed ethnicities into the legislative bodies, executive, judiciary and national army is insignificant except some races (Brahmins, Khetris and Thakurians and Newars). The result of the General Election 2056 BS shows that in 205 members of the House of Representatives, there is no representation of the Dalits living in the Terai and Hills though there must be 17 and 8 members as per their population respectively. Similarly, the representation of more than 1% nationalities has been possible only in 28 seats instead of 49 seats in average as per their population. (Source: State Restructuring -A Proposal, Khanal, Krishna, Page 32)

Likewise, the General Election 2056 BS shows that in 205 members of the House of Representatives, about 31% Hilly Khas nationalities have representation in

122 seats ( about 60%) but the Kirats/ Mongolian nationalities with 22 % population have got seats equivalent to 14% only.( Source: CBS 2002, Election Commission 2056, State Restructuring -A Proposal Khanal, Krishna, )

### **How to maintain inclusion for nationalities**

Though we talk about inclusion of every race, religion, class gender and region in the governance and development of Nepal, we happen to forget address the primary issues like how we can make it possible in the context of Nepal's special geopolitical, social, and economic condition? While discussing the issue of inclusion, it may be possible for the nationalities like Brahmin Kchetris and others who are scattered throughout Nepal and have greater number also but at the same time we have to consider the following questions: Can inclusion be possible of the Kusundas, Rautes communities whose population is about 100 to 500, can the representation of such class and communities be possible by forming the central and provincial governments? Can we provide justice to the people of 101 nationalities and ethnic groups by making 5 Or 7 autonomous regions at a time when there are voices for creating the federations on the basis of nationalities? In his context, we have to opt for a practical solution which is possible through local self governance based on devolution of power and participatory, inclusive system of all persons, civil society and nationalities.

### **Universal Practice of Racial Inclusion:**

Different methods and procedures have been adopted in the world for racial inclusion. Some countries have ensured the participation of class, caste, language, gender and region in the governance and public services through reservations. For the communities led backward or remained backward, there is reservation not only for health and employment but also for the legislature, executive and administration. Therefore, these universal practices can't be claimed that they are applicable to our own specific conditions. In this context, a suitable system can be adopted for us from the following experiences:

*By making arrangement of the federal provinces separated into various regions based on nationalities:*

**Nigeria:** People in Nigeria, located at the Guinea Bay western Africa, believe in protestant and catholic religion. There are about 350 nationalities in Nigeria which was divided into racial federal state in 1963. This country had only three racial states in the beginning but currently it has been divided into 36 states increasing gradually from 4,12,19,21 and 30 states. There is a provision of electing the president of Nigeria from 6 political regions. 10,000 people have died due to increasing conflict in 1904. Though there is sufficient amount of oil mines, this country is in the 159th position as per human development index

**Ethiopia:** Republic was established in 1995 in Ethiopia, a multi ethnic country. This is a multi lingual and multi religious country. There is a structural arrangement of 9 racial states and 2 regional states. There is 35% literacy in this country and it has 170th position as per human development. Eritrea happened to be separate due to lack of emotional unity within the nation.

*By establishing non territorial ethnic federation elected by the scattered nationalities:*

**Belgium:** Belgium, a country located in the north east of Europe, with 10 Million populations came into existence as a state in 1830. Three languages have been used as the medium of official languages. Despite the fact that this country has a provision of elected federation of 10 provinces and a provision of developing language, culture and community through such federations, the racial conflict is still continuous and the number of people willing to divide the country is gradually increasing to majority. (Kandel Puspa Raj, State Restructuring Page 101)

*By adopting a system of racial autonomy based on unitary system with majority representatives of the minority nationalities.*

There is no competitive multiparty system in China where there are 92 % Han nationalities alone and remaining 8% has been captured by 55 other nationalities. A special provision has been implemented in five provinces (Kuwauncy, Chuwang, Ningasia, Hui etc) by following a system in which there is dominance and effective role of the minorities in the decision making process to maintain the emotional unity by saving the from the potential ethnic frenzy of the nationalities in majorities. According to the experts, the reason of sustainability of this system is due lack of multiparty competition.

*By Reservation:*

Some countries including India, UK, America, Malaysia adopting the West Minister Model (or the majority wins system) have followed the policy of reservation. There is 15 percent reservation for the schedule castes people, 8% for indigenous people. And 27% for other nationalities in India but there is reservation in 33 states for the nationalities like Negro suffering from slavery, Red Indian, Plato Ricai and Mexico etc in America.

*By adopting the system of reviewing in the next census while implementing the targeted programs based on the indicators of the periodic life standard survey:*

Some of the countries under the proportional election system have implemented targeted programs for the progress of the people of the backward class and communities on the basis of economically, politically and culturally standardized indicators in the time of national population census. Such countries have achieved peace and prosperity by managing all kinds of conflicts based on class, region, race, language, gender and culture by implementing the programs after reviewing them by taking the indicators for continuity or discontinuity of targeted programs, on the basis of the national population census or periodic living standard surveys. This system is more scientific and relevant for our contest than the other systems as mentioned above.

### **The position of nationalities and issue of inclusion in Nepal:**

Nepal is a multiethnic, multilingual, multicultural and geographically diversified country adopting the absolute monarchy, unitary state and centralized governance system since last 238 years. There are 101 castes, 92 languages, 10 religious groups, various cultures and mountains, hills and terai in Nepal, but it is a fact that there is no proper representation of all nationalities, classes and communities in the governance.

It is relevant to analyze the position of population on the basis of caste structure in Nepal. Some issues seem considerable while viewing the current debate of racial autonomy in Nepal. There is no majority of a single caste or language in a

particular region due to peculiar geographic condition and population distribution. It seems impossible to look into the population structure based purely on caste and language instead of taking base of the smallest units.

According to national population census 2001, there are 15.8% Chhetries, 12.74% Brahmins, 7.14% Magar, 6.75% Tharu, 5.67% Tamang, 5.48% Newar, 4.27% Muslim, 3.94% Yadav, 2.79% Rai, 2.39% Gurung, 1.58% Limbu, 1.47% Thakuri, 13.04% Dalits and remaining 0.94% or less than that has been covered by the nationalities like Kusundas.

On the basis of population, although the Chhetries in 22 districts, Brahmin in 9 districts, Magar in 6 districts, Tharu in 6 districts, Newar in 3 districts, Tamang in 7 districts, Yadav/Ahir in 5 districts, Muslim in 4 districts, Rai in 6 districts, Gurung in 4 districts, and Limbu in 3 districts are in the first position, on the basis of majority population, there are more than 50% Chhetries in 10 districts out of 75 districts like Darchula, Dadheldura, Kanchungpur, Bajhang, Bajura, Doti, Achham, Jumla, Rukum and Salyan but the Magar in Palpa, Tamang in Rasuwa, Gurung in Manang, Tharu in Bardia and Newar in Bhaktapur have more than 50% population. In other districts, there is no majority of any caste. (Pitambar Sharma, Mulyankan: Shrawan 2063)

Today's debate in Nepal is related to the issue of whether racial federation is applicable or not for restructuring the state. In this context, by analyzing the proposed states by Nepal Communist Party (Maoist), as per population structure, we find that there are 20.74% Rais and 12.81% Limbus in the proposed Kirant Federal province. The population of Tamangs is 30.52% in proposed Tamang autonomous province, the population of Newar is 35.40% in Newar autonomous province, the Gurungs are 17.01% in Tamuwani autonomous province, the Magars are 30.83% in Magar autonomous province, the Tharus are 38.58% in Tharuwan autonomous province, the Chhetries and Brahmins are 46.34% in Bheri Karnali autonomous province, the Chhetries and Brahmins are 68.05% in Seti Mahakali autonomous province and the number of people speaking Maithili, Bhojpuri and Abadhi language is 76.50% in the Terai. This data shows that there is no majority of any castes in any proposed provinces.

Similarly, in the context of Nepal's restructuring various experts and intellectuals have presented models of various forms and number of districts and provinces. According to Dr. Harka Gurung, 25 districts have been proposed, Shankar Pokherel has proposed 15 provinces, Prof. Krishna Khanal has proposed 14 provinces, Ram Kumar Pandey and Birendra Deuja have proposed 11 provinces and All Nepal Nationalities Convention has proposed 11 autonomous sub regions. In addition to this, the political personalities and intellectuals including Jhalanath Khanal, Rajendra Shrestha, Dr. Pitambar Sharma, and Sri Krishna Yadav have their own opinion and ideologies. Among these opinions, some people have proposed state restructuring on the basis of race and language and some others have done so on the basis of geography and natural resources.

The ownership of people in the governance can't be established in the absence of representation of all concerned and this invites the voice against the legality of governance. The following points must be considered while restructuring the state on the basis of the above mentioned contexts, arguments and bases by getting sensitive to the inclusion of nationalities.

- There is no densely populated settlement of any caste, language, religion and culture in any region of our country. It is inappropriate to stop people and they can't be stopped for mixed settlement in modern state system. Therefore, it is necessary to consider equally about various factors such as:

will the ideas of making federal state on the basis of caste open up a common consensus and outlets to our current problems? Will the proposal to make access of a particular class, community or nationality to state and state resources on the basis of caste by giving autonomy to them encourage racial intolerance?

- What does the current demand for racial autonomy refer to? Does the racial autonomy refer to the rule of particular caste over other castes? If it means so, will it be a sustainable means of settling the widespread inequalities, injustices and suppressions existing in our society. If it is a rule of all castes with equal right to all people, then we have to think whether the racial rule becomes the local self governance. It is also necessary to think seriously about the fact that the racial federation based on the mixed settlement with no majority of a single caste may be based on the regional autonomy instead. If it is based on the concept of minority caste rule, will it maintain emotional unity in the Nepalese society?
- The supporters of the concept of racial have opined that under the racial autonomy, dissatisfied minority castes people can establish special racial governance in the local or sub regional level in case they are not satisfied with the single caste rule. If we go ahead with this concept, we have to establish local autonomous government units by considering the fact that there is a settlement of 10-15 castes in a single village development committee. Though it is attractive theoretically, it is practically considerable how successful and feasible it can be on the basis of financial burden, market and human development.
- As explained by Krishna Bahadur Bhattachand, the senior sociologist, if it is a concept of establishing racial units and giving more right to a candidate of a particular caste in the racial province and only voting rights within the province and levying more taxes on the people of other communities living in the non racial provinces than the people of racial unit, this concept must be widely discussed whether it encourages racial inclusion or discourages it. (Kantipur Daily, Falgun 7, 2063)
- The system which is based on periodic life standards survey implementing special programs by allocating budget and resources as per the development indicators for any caste and reviewing and evaluating periodically, is also considerable because it guarantees the reasonable participation of such castes for their rights in the governance and development. Implementation of the policy of affirmative discrimination can be an appropriate option to resolve the existing problems for maintaining equality in a broader sense.
- *Devolution of authority to smaller units and local self governance.* Although the unitary states with a decentralization to some extent can be considered in the context of cultural diversities mixed settlement of various castes with fewer population, suitable customs for them, and scattered racial population and settlement but this concept cannot be included into the periphery of the federal states currently under discussion. The demand of local self governance has been weaker by recalling the past local bodies which were running under the will of the center and had exercised limited power. This also does not give answer to various questions of racial inclusion. Therefore, we have to make racial inclusion more practical and functional by giving enough space to the 21st century human civilization

devoted to support self governance while debating on the issue of state restructuring.

*By reforming election system:* There is lower racial representation of backward or pushed backward people in the public services and various level of governance. To increase their participation in the governance, the "first past the post" system adopted in the past was found as a main obstacle and the arguments have been developed to replace this system by proportional election system. If this system is adopted, it can be easier to facilitate the representation of all targeted castes and groups including the political parties to the governance with public support.

### **III. Lingual, cultural inclusion:**

If we observe the classification of population of Nepal on the basis of mother language, we can find that according to national population census 2001, out of 92 mother language speaking communities, only 12 languages (Nepali 48.61, Maithili 12.30, Bhojpuri 7.53, Tharu 5.86, Tamang 5.19, Newar 3.63, Magar 3.39, Abadhi 2.47, Bantawa 1.63, Gurung 1.49, Limbu 1.47, Bajika 1.05 percentage) are used as mother language by 1% of the total population. (National Population Census 2001, Statistical Pocket Book 2006) While analyzing this, 87 persons speak Kusunda language, 8 persons speak Chhintang and 4 persons speak Lhomi language as mother language including the maximum population's language.

Due to the past system of recognizing Nepali language as the medium of government's official activities, it is revealed that the communities of other mother languages and culture got their dignity hurt and it also created some obstacles for the development of their culture and career.

In this context, if we take example of the countries under federal system like the United States of America, Brazil and Canada, India, Switzerland, South Africa, Macedonia under Unitary State system, Papua New Genie which has 850 languages, have adopted a policy of teaching two languages, three languages, four languages, 10 languages, 2 languages and 369 languages respectively and maintained their emotional unity of the nations. Similarly, despite the provision of recognizing the Macedonian language as the language of official use, there is a constitutional provision that the autonomous local governments related to a particular nationality and having a settlement of the majority can use their own language and scripts officially as prescribed by law. (Constitution of Macedonia, Article 7). On the basis of such constitutional provision, the minority Albanians have used their own language for the official purpose. Though English is an official language of Namibia, this provision hasn't stopped to use other languages in the government agencies and schools as official language and implement special programs to empower the citizens for the use of an official language. The constitution has made inclusive language policy by making a provision that the parliament can make laws to permit the use of any language for legislative, executive and judicial procedures in the particular regions where such language is spoken by the majority population. (Constitution of Namibia, Article 3).

In this context, Article 5 of the Interim Constitution of Nepal 2063 has made a provision that all mother languages are national languages and Nepali language will be used as an official language but this provision will not affect the use of mother language in the local bodies and offices. Due to this constitutional provision, a positive outlet has been opened for restructuring the current state. And by considering this fact; it is necessary to make a clear provision for ensuring the right to culture and

language to all concerned for the effective use of such language by the government of all level.

#### **IV. Inclusion of Gender:**

The word community is found to have developed their own practices for gender equality. Norway, Finland, Denmark and Sweden have remarkably increased the participation of women from 30% reservation to 37%, 36% and 47% respectively. Rwanda, a new independent country, has increased the women's participation to 49% and USA, Switzerland in Canton level and Japan have increased this participation to 17%, 24% and 7% respectively.

In Nepal, the participation of women in administration in Nepal is 9.1% and according to a statistics produced by the Department of Education, there are 40.1% women in Primary level, 18.9% in the Lower Secondary Level and 11.3% women in the Secondary Level. Likewise, there are 18.10 % women in the councils of local body, 7.57% in the executive bodies and only 12 women were elected for the Member of Parliament in the general election of 2056 B.S.

Since there are various policy decisions and political understandings to ensure at least 33% to 50% participation and representation of women in all levels of governance, the issue of effective implementation of such decisions has been matter of concern for all. Such provisions can be taken as the positive steps for the equal participation and institutional development of democracy.

People can't feel the sense of social justice and equality unless we resolve these discriminations therefore it is necessary to make constitutional, legal and structural arrangements by ending the social and economic discriminations created in any form name and content. It can be the best alternative of inclusion to seek the solutions of all problems by self governance system which makes people understand their problems and fulfill their responsibilities accordingly.

#### **V. Policy of religious secularism**

According to the Article 4 of the Interim Constitution of Nepal, Nepal is a secular state and Article 23 also states that every citizen has right to follow his own religion. There should be an arrangement so as to mutually respect all religious communities and raise the level of social harmony by making this provision sustainable.

Analyzing from this perspective, it seems to be the best option to restructure the state for making the governance more devoluted and inclusive in order to increase self respect and broaden the participation of all citizens, class, gender, region and nationalities by ending the past, exclusive, centralized governance system with the objective of not only including the nationalities but also uplifting the living standard of human beings.

### **3. Substantial Aspects of State Restructuring**

The analysis of such issues shows that it requires to judge minutely about our own specific geographical condition and historical as well as social situations. In this context, we have to come to the concrete consensus with judicious foundations by learning from the experiences of other countries. Observed superficially, the federal state may appear similar to decentralization but it is not so. Some of the unitary states are also more decentralized than the federal states. (Azfar L Al, 1999:8) On the basis of these opinions, it can be concluded, the form of our state system can be federal or unitary but it needs the devolution of power. To sum up, there must be a clear

constitutional provision for the functions, rights and responsibilities of all governments in different level whether the sub regional governments' are related to local or provincial or state or central governments and this issue must be finalized. The following alternatives must be considered while making such arrangements.

### **3.1 Constitutional Provisions of the governments of all level**

*Clear constitutional provisions should be made for strengthening citizen's rights and Local Self Governance:* It is not logical to conclude that unitary system is necessarily a centralized state on the basis of the practices and results of the 238 years old absolute monarchical centralized feudal state system which never implemented the concepts of decentralization. Nepalese state did not become decentralized till now not due to unitary state system but because it is centralized, absolute and it has no clear constitutional provisions. In short, it is due to the feudal culture of punishing the poor and respecting the richer and due to unwillingness of the rulers to give authority and responsibility to the local governments closer to people. It is also due to the fear of the rulers that more power to the local level can limit their own moving space. On the other hand, it is so due to lack of political thought which focuses on the maximum participation of citizen's in the governance for ensuring the real practice of sovereign power vested to them.

In this context, the need of the day is to make clear constitutional provision regarding the local governance to constitutionally guarantee the supreme power of the people. There must be a constitutional provision about the fundamental aspects of the rights and duties of the local autonomous governments while a country enters into federal system through a single and central constitution. Otherwise the conflict among the government in different level will continue forever.

In today's world, there is a constitutional provision for the local self governance in all countries whether they have unitary system or federal system. It is a matter of political power sharing and decision regarding what kinds of arrangements for the local self governance should be made and there is no uniformity of practice among the countries for how long and short such provisions could be made. Still, like our countries moving ahead to the legal practices, there is a strong demand of making longer but clear constitutional arrangements like Uganda. The formulation and amendments of laws and policies related to the local bodies should not be done without consultation of the local bodies and the following issues must be considered while making constitutional provisions;

- To constitutionally ensure the rights of the local governments to form forums, unions and federations to represent them in the central governments for their common interests, and to facilitate them in resolving the disputes with the governments in the central and local level while getting cooperation for capacity building
- Provision of 2/3 majority of the Parliament and consultation of the unions and federation of the local governments while amending or making changes in the laws such as Local Self Governance Act. For example, the local self governments are regulated as per the law passed by the 2/3 majority of the central legislature of Macedonia. (Constitution of Macedonia. Article 114,5)
- Provisions of not amending any constitutional arrangements regarding the boundaries and structures of the local governments without taking their opinions or approvals. ( Constitution of Estonia Article 158)
- Provisions of representation in concerned parliamentary committees by the unions and federations of the local governments.

- Arrangements of representation by the unions and federations of the local governments in the Central Budget and Resources Allocations Committees which is formed for allocation of resources between the local and central governments.
- Making legal provisions to ensure that the unions and federations of the local bodies shall provide their feedbacks to the central governments and parliament and support the local governments by making sample laws, regulations and manuals, advocating, pleading and developing capacity of the local government and define other roles of the unions and federations by the central constitution as made in Kenya.
- Provision of forming the local self governments only through constitutional provisions: for example Article 100 of the Constitution of Czech Republic, 1993 has a provision by which the autonomous territorial units can be formed and dissolved as per the constitutional laws.
- Clarifying the relationship between the sub regional and central governments: For example, the central governments can interfere in the activities of the local governments in course of maintaining law and order situations and for the execution of law as per the legal provisions( Article 101, Czech Republic), the provision that the central governments can supervise only the legality of the activities of the local governments (Article 115(2), Constitution of Macedonia), a provision that the government can appoint its representatives to oversee the implementation of the decisions as prescribed by law(Article 123, Constitution of Lithuania).
- The provision of responsibility of the centre for the capacity development of local government: The central government shall co-operate the local government. (Article 120, Constitution of Lithuania).
- Acceptance of the principle of residual right for the local bodies: The local self governments will carry out the public works which are not under the jurisdiction of any government agencies and bodies by the constitution and other laws. (Article 163, Constitution of Poland, 1997).

### ***3.2 Consensus on the universal principles of decentralization and local self governance:***

If we don't address the demands of local self governments while debating on state restructuring, it seems almost impossible, in the context of Nepal, to ensure sustainable development, peace and social security and the way of resolving the conflict also seems invisible. In order to achieve following objectives and to get right solutions of the existing problems in the political, economic and social field of Nepal, the way of local self governance can be the best option and it must be put into the centre of all debates regarding state restructuring.

- It is possible only through local self governance to develop a system for safeguarding the rights and sovereignty of the people from the absolute monarchy always willing to be active (whether in power or not ) after ending the exclusive, centralized, unitary governance and creating a situation conducive for people to use their supreme power for the institutional development of democracy.
- Self governance is necessary to end the past centralized governance system with the supremacy of the center and with limited local autonomy in order to establish and increase people's ownership in the governance.

- There is no any other alternative of local self governance for transforming the governance of every level into a highly participatory and inclusive system by ending the centralized state system which has representation of the limited elites and feudal elements only.
- The institutionalization of the benefits of democracy can be effective only through local self governance by creating a situation where the general public can exercise their sovereignty.
- Local self governance is also necessary for reliable public service delivery in a transparent and accountable manner by the lean and close government by taking the devolution and decentralization process into the local level on the basis of principle of subsidiary.
- Making the self reliant and self accountable governance system more sustainable is possible only through establishing and developing the local self government and by creating a situation which makes people feel that the legislative, executive, judicial, administrative and financial systems are autonomous down from the local level.
- Local self governance can be the best alternative to end the centralized thoughts unwilling to give right to the local level and change the status quo mind set.
- In the diversified Nepalese society, only the local self governance can create a condition in which the development and practice of all nationalities and cultures seems possible and the other systems and models seem comparatively impossible than this system.

The Interim Constitution of Nepal has directed by a clear provision that the form of state structure of our country will be based on federalism but the final decision on this issue will be made by the Constituent Assembly. In the meantime, it is necessary to discuss intensively about various issues related to form of state structure rather than the local governance. The global experiences must be reviewed to know the strengths and weaknesses of the governance system to address the questions such as what can be the form of the federal system, the number and structures of the system, what can be the form of relationship with the local government, distribution of the rights and duties and coordination. After enough discussion in the national level, a proper decision must be made. While restructuring the state, the following fundamental aspects for establishing the local self governance and development must be emphasized. In this regard, it can be more democratic and in the support of the peoples' rights to act as given below by focusing on the new form of the state.

### ***3.3 Determination of levels of the state:***

It is always expected that there are fewer levels of the state system in order to provide effective public service delivery to the people. In this regard, the following structures of a state must be managed.

**a) Restructure process must be carried out by making legal arrangements to increase the function and power of the community organizations:** There must be an arrangement in which the legal status of the community based organizations is very high. For examples, the communities will be fundamental components of regional self governance units which are autonomous and free local units. (Article 64, Constitutions of Slovakia)

- In the coming state system, the formations of community organizations and their effective mobilization must be made widespread in order to make such

organizations strong and implement development activities through social mobilization. While doing this, group must be formed on the principle of "one group per community" and such groups must be made responsible for overall development activities by forming sub groups on the basis of line agencies, target groups, social economic or other such factors.

- Issuing and implementation of the manuals related to democratic organizations and mechanisms and the groups working in the affiliation of the ward committees.
- According to the principle of subsidiary, the communities have to implement the activities which are less costly and implementable by the people's active participation in the ward levels and settlement areas. For this, there must be arrangements of determining the scope of work, nature of works, limitations of investments and standards by local governments as per their specific features such as resources of the community, capacity and participation.
- Making a partnership mechanism between two communities in the development activities regarding the mutual benefits and public interests.
- A provision of a system in which the local governments are responsible for the mobilization, coordination and facilitation of the community organizations/institutions.
- A provision of the following rights and duties for increasing the legal position of the communities

*Rights of the community organizations:*

- Right to form and operate the community organizations, cooperative societies and user's committees.
- Right to form groups and sub groups by the community organizations as per their need.
- Right to launch programs, levy service charges, mobilization and spending of resources.
- Right to make formulate and implement code of conducts and fix the criteria for the community organizations as permitted by law.
- Right to participate in the hearing programs of concerned level of governance on the basis of level wise responsibility and the structure of the community.
- Right to mobilize the communities in the local community development and service delivery activities.

*Responsibilities of the community organizations*

- Participatory, inclusive, democratic functional management and formation of the organization accordingly.
- Carryout the functions like registration, renewal of the CBOS in the local level and co-coordinating them.
- Budget preparation, implementation and submission of programs to include them into the plans of the local bodies/governments.
- Co-operate the concerned local bodies/government for regulation and monitoring activities.
- Creating mutual fund for the persons and resources to be mobilized by the communities.

- Implement the functions as prescribed by the existing law or local government Act or make them implemented.
- Reporting of the activities performed by them regularly.
- Make partnership with the local governments regarding the community development activities.
- Provision must be made in the constitution about the village and municipal level governments as self local governments.
- The dimensions of rights and functions of the Government of Nepal and provincial or district level government must be clearly mentioned in the constitution.
- On the basis of appropriate criteria, the number of districts and VDCs must be reduced by giving the concerned VDCs, municipalities and DDCs more powerful with appropriate structure and system for effective service delivery to the people. There must be a provision to ensure maximum power and responsibilities to the local bodies which are very close the people.
- Other than the local bodies, there must be a clear provision to accept the local bodies as the institutions with an elected representative and perpetual decency and the Village Development Committees and municipalities must be transformed into the village and municipal governments instead.
- Broaden the geographical boundaries of the village and municipal governments and reduce the current number of the Village Development Committees.
- A provision to give right to village and municipal governments to form wards on the basis of criteria like population size and geographical specificity and the scope of ward must be widened.
- As per the requirements, VDCs and Municipalities must be given right to form commissions, co operatives, departments and divisions and a provision of an officer level chief Executive in case of VDCs and there must be an accountant and other technicians as per the need of the line agencies.
- Current names given to VDC and DDC must be replaced by District autonomous council or in case of continuity of the districts and province autonomous council for discontinuity of the district and VDC and municipalities must be replaced by village and municipal governments so as too refer the governance system of the country.
- The name of the concerned level must also be changed for the local governments.

**b). Provision of only one structure in the middle either districts or provinces:**

- On the basis of functional responsibilities and expenditure, it is scientific to determine the levels of governments. If there is still continuity of the two tier structures like districts and provinces even in the new state restructure, there can be continuity of debates like which level will enjoy what kinds of power and functions and it can harder to institutionalize transparency and accountability.
- Due to this, without debating on its terminologies, whether province/district or region or sate, there must be only one higher structure (level) above municipalities/village government and the number of existing districts must be reduced. The number of restructured provinces may go up in case the number or current district is non existent (20-25 provinces or districts)

- If the number of current district is reduced, all functions carried out by them must be given to the Village and municipal governments and only the function of inter governmental coordination must be given to the provinces governments
  - Instead of making regional or provincial or district level structures which are financially more expensive, administratively cumbersome, delaying in terms of time flow and distant from the people, a provision must be made to retain district or province level governments. The district or province level governments must be ensured constitutionally to carry out the functions as inter local government coordination and capacity development of the local governments.
- c) **A provision of private sector and market going side by side with the decentralization process.**
- A policy of accepting private sector's role on the implementation and management of development programs which are under the responsibilities of the government.
  - Adopting a policy of providing public service delivery by all governments of all level in the partnership of private sector.
  - Adopting a policy of public private partnership for implementing the government activities of all level, that requires the technical skill and capacity.

#### ***3.4 Division of functional responsibilities and rights among various levels of governments:***

The structure of the division of functional responsibilities, relations and coordination among governments of various levels must be clearly defined while discussing the issue of state restructuring, there must be a final decision on the issues such as: how to share the duties and responsibilities among the governments and what can be the form of devolution. In terms of people's participations and social justice, there is nothing insufficient in the countries like America, Switzerland, Canada, and Belgium which are under federalism and in Denmark, Norway and Sweden which are under unitary state. In comparison to India, Pakistan, Malaysia, Mexico, Venezuela where there is federal system of the local governments and people of Macedonia, Croatia, Kenya, Philippines, Japan Columbia and Uganda under unitary state system are far more powerful in terms of political, economic and administrative autonomy.

The Scandinavian countries, despite few written provisions in their constitutions are regarded as the countries where the people's rights have been ensured at the maximum level due to their highest political commitment to local self governance. The newly freed countries like Uganda have made very long and clear provisions in the constitutions as in the acts in order to get rid of the centralized ideologies and for sustainable protection of local self governance. The countries like Macedonia, Croatia, Kenya, Uganda, Philippines, Czech Republic etc which are under unitary system, have clearly made provisions in their constitutions about the division of works between the local and central governments and consequently been successful to practice real democracy. The unitary state, Macedonia has mentioned a provision of promoting the participation of community organizations in the governance system and has freed the country from the risk of being governed merely by the elites. By this, it is obvious that the form of the state, federal or unitary, doesn't play a major role in making local self governments powerful and responsible but the issue of establishing

local self governments and their functions and rights are subject matter of political settlement.

Self governance can be meaningful by constitutionally allocating of the rights and division of work of the governments in various levels and it is a matter of intergovernmental power sharing rather than what can be given to local governments.

- While dividing works, we have to start from the issue of what rights and responsibilities to what extent be provided to the lowest level units or community organizations and unions. Above that level, the functions, rights and structures of the wards, village, metropolitan, district, provincial and central governments must be determined in the harmony with the structures and duties and the rights of such governments on the basis functions and need.
- The states must be restructured so as to give functions to the central governments related to foreign affairs, defense, monetary policy, transfer of advanced technology, resource allocation, checks and balance, coordination between provincial or local governments for proportional development and international standard and capacity development of the lower level governments. The functions other than mentioned above must be given to the local level by making clear provisions in the constitution. Now onwards, it is not to order or give this or that rights to the local governments but it is to limit responsibilities of the central/national governments to the functions impossible to be implemented by the local governments. The primary responsibilities of the central government should be limited to maintain unity among the Nepalese people of all classes, regions, communities and bring them into the mainstream of balanced development by eliminating the widespread inequality based on gender, class, and region and development capacity of the local governments.
- The interrelationship between local governments and governments of the upper tier, the allocation of revenue on the basis of set rules communication etc must be managed while restructuring a state.
- A policy of partnership for development works, inclusion in the upper level governments and governance must be implemented.
- The central government must be less interfering on the issue of local self governance but must be a motivator; the central government should monitor the activities of the local governments regarding their conformity to law and constitution only and there must be a provision that bars the central governments to question about the rationality and good and bad aspects of the local governments decisions.
- Right to appeal in the court of law must be given to the local governments in case of restriction in the civil rights or violation of their autonomy. (Article 122, Constitution of Lithuania, 1992)

There must be a certainty of formation of governments in all level, their basic functions and their rights and duties must be clearly mentioned in the constitution. While making work divisions, the local governments must be guaranteed as the fundamental rights of the people. The constitution must guarantee the political, financial, administrative and cultural autonomy of the local governments.

**A proposal on the sectoral functional responsibilities of municipality and village level government:** *The following sectoral functions must be allocated to the local level through constitutional provisions.*

- Municipal and village level governments are easily accessible, visible and participatory governments of the people. An arrangement should be made to carry out all functions by these governments and the functions impossible to carry by them must be implemented by the central or provincial governments.
- There must be a work division so as to permit the central governments to carry out the functions impossible or questionable tasks for the district or provincial governments.
- For example, primary and secondary schools, primary health, municipal and village hospitals, small irrigation projects, small drinking water projects, citizenship, passports, birth and death certificates, land registration and ownership transfer, road, house etc, standard approval, protection of fundamental human rights, playgrounds, sewages, electricity management, tourist area and entertainment places, peace building, construction and management peace, security, tax base and rate fixation and collections.
- The rights regarding decision of civil cases on the recommendation of judicial committee, formulation and regulation of laws without any contradiction to central and provinces, formulation and implementation of agriculture and forest plans, approval of small industries, garbage management, child development, energy promotion, sanitation and implementation of local information and communication programs be provided to local government.

**A proposal on the sector responsibilities of district or provincial government:**

- District or provincial governments have to formulate Acts and Rules per the constitutional provisions and must be approved from the provincial legislature, the university and higher education of the province level, road construction between two village and two municipalities within the province, drinking water and sanitation, irrigation, provincial or district level hospital, epidemic control, research, technology transfer, assistance for the municipality and village government for agriculture and livestock development, industrial promotion.
- Capacity building of the village and municipalities, market management of the province level, regulation, quality control, promotion and development of the cooperatives and implementation of the poverty alleviation programs, formulation and implementation of the policy of affirmative discrimination and cooperation, determination and development of the provincial language, curriculum development and instruction in this language and developing it as an official language, protection and development of culture, protection and promotion of the archaeological heritages, communication and information.
- Rights to implement the activities as such law and order, district and province courts according to the principle of separation of power, appointment, career development and retirement employees, judges, teachers and professors from the independent commissions, approval of leaves and festivals, sustainable utilization and protection of natural resources, protection and sustainable utilization of provincial forests, sustainable utilization of the minerals,

formulation and implementation of the environmental impact assessment policy, identification of the tourists area and its development and capacity building of cooperative societies establishment of agricultural farms and research centers, permission for transportation services, cable network, cinema, FM radio, TV, approval and management of e-governance system, management of training centers, public private partnership programs, libraries and information/ communication centers and land utilization policy, management and implementation of waterways (sewages) must be given to the district and provincial governments. Similarly, the rights to establish the provincial insurance, banks, provident funds etc establishment, capacity development and cooperation to village and municipalities must be given to provinces.

- In this way, there must be a clear provision, after proper, study about the rights of the local governments and cost the necessary budget for the implementation of such rights, and the ways of maintaining financial stability of the local governments through revenue resource mobilization, grants and loan accordingly.

#### **Proposal on the sectoral responsibilities of the government of Nepal:**

- The government Nepal has to be provided the rights/functional responsibilities on the sectors such as monetary system, International relation, central information and communication, central railways, airways, customs, water supply system of advanced technology, irrigation system of the advanced technology, national highways, central universities, central hospitals, National research, National training centers, technology import and transfer.
- Formulation of laws by the legislature, amendment of the constitution, large scale hydro power projects, gas, large-scale mines, national forests, protections centers, public service commissions, election commission, quality standard determination, national policies and programs formulated on the basis of policies of the UNO. Protection of fundamental human rights, formulation of affirmative discrimination, their implementation, land reforms programs, postal services, national insurances, foreign debt.
- There must be a mandatory constitutional provision on the allocation of revenue and grant for the development budget, administrative budget and capacity building as the development indicators, remoteness, population and capacity building of the districts and provinces. A provision of obeying the national policies by the districts or provinces, district and provincial by the municipal and villages governments. The center has to retain the primary responsibility of national security, an arrangement must be made to cooperate by the centre incase of any serious problems are created by the local level.

#### ***3.5 Division of political rights***

Sovereignty must be shared with the representational government of all levels. In the local level, a system with judicial executive and legislature right should remain with the local governments as per the principal of separation of power and checks and balance.

#### **On the legislative Rights:**

When we analyze the legislative power of the local governments to enact laws, we find that the local governments of USA, under federal system, can issue charters

as acts but the communes in Switzerland lack such power. In South Africa, the bylaws made by the local governments can be issued only after getting approval of the government in the upper level. In India, all Federal states except Kashmir have no right to make constitution but can formulate acts only.

Likewise according to the Article 208 of the Constitution of Kenya which has followed unitary state system, the district councils can make appropriate laws on the basis of constitutional provisions. Article 129 of the Constitution of Croatia 1990 has allowed the local governments to approve and execute their statutes as laws themselves. The Constitution of Japan has a provision in article 94 to give right to local governments to approval and execute their regulations themselves and article 68 of the Constitution of Slovakia has provisioned that the local governments can approve "Decree" and implement it regarding local self governance. Similarly, it is considerable that the local governments of the other countries under unitary system, have right to make substantial laws. For example, the autonomous unites can issue the mandatory ordinances remaining within their territory according to the rights provided by their constitution. (Article 104, Czech Republic) and regional and local councils can make and execute rules and regulations according to the provisions in the statutes. (Article 108, Constitution of Namibia). By this it is found that even in the unitary States, the local governments have enjoyed adequate legislative rights constitutionally similar to the sub regional units under the federal system.

In Japan, 2/3 majority of the National Diet, is required to amend the laws related to the local governments which approve and issue the regulations of their own. The parliament of Sweden has a right to amend the provisions on local self governance acts with 2/3 majority of both the houses. By this prospective, it is now time to equally consider the demand that the local governments must be given right to make their own laws as permitted by the constitution.

The right of the local governments to make substantial laws under the provisions and limitations of the constitution and other laws of the land, (Acts as required, rules, by laws and policies) must be guaranteed constitutionally. This right must be given whatever structure (federal and unitary), the nation follows:

- Without getting consent of the concerned governments, there shouldn't be any constitutional amendments which have adverse impacts on local self governance. The examples of such provisions can be found in any governance system. Example, the 2/3 majority of the parliament can amend and change the constitutional provisions regarding local governments in Japan and Sweden.
- It is a fact that the rights and duties of the state and provincial governments are emphasized in the democratic federal system and the constitutions give priority to local self governance in the unitary system. In our context, there must be clear constitutional provisions about the local governments in Nepal's constitution.
- As in the unitary system, there must be similarity about the rights of the local governments in the federal system. For example, the scope of works, rights and duties and responsibilities of the local governments in California of USA are very wide, clear and pro local governments in comparison to Omer States, Michigan and New Hemsire of America, the local governments have enjoyed right but there is no such right to other states. There is partyless election for the local bodies in Nebraska. Similarly, the local governments of Kerala and West Bengal of India are more powerful than the other states whereas there is no election for the local bodies for 25-20 years in some states. It is a strong example that even in the federal states governments are less powerful and

there is no equal right to all. In this context, a clear constitutional provision must be made on local governments in Nepal's constitution.

### ***3.6 Establishment and development of democratic system and structure***

#### **On election of local governments, formation of accountable executive and inclusion:**

What will be the appropriate election system for local governments? Will there be direct or indirect election for the executives of all level? Is it presidential system or parliamentary? Will there be a direct election for all executive members? Will the provincial or district elections be direct or indirect? Can the regional members or ward chairman be taken to executive or be managed differently? Can the head and deputy heads of the village or municipal governments be made member of the districts or provincial legislature or elect directly? Can "first past the post", or propositional or two phase election system or other ways will be suitable? Can it be racial proportional or ideological proportional or both? In our context, a decision must be made on which alternative can be appropriate and sustainable. Regarding the election systems for the local governments, the following arrangements seen appropriate to be followed tentatively,

- The election for the legislatures of all levels should be based on inclusive and proportional election system.
- There must be a direct election of the Head of the Executive in all level.
- A system must be developed on how to form the council of ministers. (executive) of all level whether it is from the legislature or politicians excluding the legislature or through inclusive system or existing system can be followed or are any other options available?
- An arrangement/provision to recall the executive members by 2/3 majority of the local parliament.
- **Decisions by the referendum:**

For the highly controversial issues of public importance with long term impact a system of referendum must be made mandatory to the governments of all level.

### ***3.7 The financial right of the local governments must be fixed constitutionally:***

One of the most sensitive issues regarding decentralization is the issue of work division of the local governments in different levels and according to the principal of fiscal decentralization, the necessary rights and resources should be provided to them who have been entrusted to carry out the responsibilities. In the unitary states like Denmark, Uganda, Philippines etc., the work division has been made by the constitutional provisions. Likewise, a separate section of the constitution has listed the functions of the central governments in most of the countries following federalism. Example, American constitution has listed 17 types of functions of the federal governments and Indian constitution has listed 96 functions and remaining functions have been recognized as the residual rights of the lower level governments. But due to the unclear provisions about the residual rights, some of the countries under federal system as Spain and Russia are found to have settled consultations and agreements with lower level governments by sharing the most significant rights.

### **Constitutional and legal provisions on revenue justification of local governments**

In most of the countries of the world - federal or unitary, have directly or indirectly given some constitutional rights to the local governments to levy taxes, collect and mobilize such resources. In Denmark, a federal country, the local governments arbitrarily fix tax rates and scope of taxes. In Uganda, where there is unitary system, the constitution has made a clear provision of permitting the local governments for discretion decide on tax bases and tax rates. Similarly, the Philippines which is a unitary state, has guaranteed the right of the local provinces and others to levy, collect and mobilize revenue and get reasonable amount of revenue, consequently making an arrangements to settle the issued aroused there of through mutual dialogue. In the countries like Slovenia, New Zealand and Portugal, the local governments determine the tax base and tax rates. In the countries like Switzerland, Brazil, South Africa which are under federal system, have made constitutional provisions for rights to the local governments to fix tax base, tax rate and collect revenue within their territory. These provisions indicate that determination of tax base or tax rate fixation is not a precondition for federal or unitary system but is merely a matter of political commitment. Till now, this right hasn't been given to the local bodies and this issue must be addressed while restructuring Nepalese State.

#### **The preferential right of the local level in the fixed assets and natural resources:**

Since property tax is the main income source of the local government, there is a universal assumption that the right to levy tax on fixed assets should be vested to the local governments. Likewise, it is accepted that the local bodies must have preferential rights to natural resource. In the constitution of Indonesia which is under unitary system, there is a provision of providing 90% of the land and property tax, 80% of the natural resources. 15% of the oil mines 30% of the biogas to the local governments but in some federal unitary states, there is still a debate on the issue of identifying bodies for collecting revenue from the natural resources and methods of allocating it between centers and local governments. In some countries, following the federal system, these governments have control over the national natural resources whereas in other countries federal units have control on such resources. For example, 87% of the natural resources in Nigeria and 85% in Iraq have been kept in the share of Federal government but in Canada and Australia (except in sea block area); the income from natural resources is under the control/ownership of federal units' i.e. the lower governments.

There is a constitutional provision in Nigeria to provide not less that 13% of the income of federal government to the region from where the income was generated from the natural resources.

#### **Constitutional and legal provisions regarding intergovernmental allocation of the revenue and grants for the equal development of all sectors:**

There is comparatively a big fiscal resource gap of the local governments than the central governments. It is because a central government collects more revenue than the required expenditure whereas local governments need more revenue to reduce gap between revenue and expenditure assignments. Furthermore, local governments need more income due to their division of works. In order to achieve equitable development by reducing this gap, the countries under unitary and federal system, have made constitutional and legal provisions to provide budget to the local governments through a formulate of revenue allocation and grant or the provision is

made so as to provide more grants to the poor local governments and fewer to the richer ones as per the equity principle.

The constitution of Uganda has made a provision of the unconditional and equalization grant system. The constitution itself has a clear provision to provide enough grants for the regions under devolution of authority. Likewise, in Indonesia there is a system of allocating revenue by the central governments to the backward region out of the income from natural resources and VAT. In total, Indonesia has made legal provisions to provide 25% of the national income as grant to the regional level. As per the constitutional provisions of the Philippines sources revenues mobilization, levying tax, and getting reasonable amount of it by the local governments (federal states and local governments) and to settle the debates through dialogue, the new Act of Philippines has made a clear provision that 40% of the total revenue income of the central government will be provided to the local governments. The local governments get 25% of the VAT income of the central governments in China. In Thailand, Ukraine and Hungary too the local governments have helped the central governments to collect revenue after getting right to collect VAT.

Similarly, in Russia and Nigeria, under the federal system, the central governments have to provide 25% and 50% of VAT to the local governments respectively. Two states Michigan and New Hampshire of Canada and USA, have right to levy and collect VAT as per law. Moreover, in the countries, like Brazil, Switzerland and South Africa which are under federalism, there is clear constitutional provision that the revenue and grant allocation and the central governments of these countries have to provide compulsorily the conditional or unconditional grants and revenue allocation by fixing certain percentage as an equity contribution. The rich local governments of some countries have to provide grants to the poor local governments. For example, the rich states or local governments have a practice of providing grants to the province or local governments in Germany.

As mentioned above, it doesn't mean that the tax or revenue bases are very narrow in the unitary system and wider in the federalism system. It seems that proper and reasonable management of revenue allocation to the local level is possible in both systems. It isn't true that only in federal system, the right of provincial states to natural resources is ensured. On the basis of resource mobilization and allocation, it can't be concluded that all countries with federal or unitary system are against the interest of the local governments. All issues are closely linked to the political commitment. This fact can be clarified by the table given below:

**Table: Status of Local Government Expenditure in Total National and Domestic Production**

Nation	GDP	The position of local government expenditure in total public expenditure
<b>Unitary</b>		
Denmark	Nearly 31%	57%
Sweden	26%	42%
Finland	20%	38%
Holland	17%	41%
Italy	12%	25%
England	11%	28%
Portugal	7%	17%
Nepal	1.48%	7.52%
<b>Federal</b>		

Austria	9%	19%
Germany	7%	19%
Belgium	6.5%	15%
Spain	6%	16%
Switzerland	46%	38.7% (federal) 33.5% (Canton) 27.8% (Commune)
South Africa		29% (Central) 44% (Proviencie) 26% (Municipality)
India	(federal) 11.2% (State) 12.3% (local) 11.4%	(federal) 32.12% (State) 35.26% (local) 32.62%
Venezuela		(Federal Government) 78%
Mexico, Malaysia		(Federal Government) 85% more
Australia, Spain		(Federal Government) 70%
America		(Federal Government) 60% more
Canada		(Federal Government) 35-40%
Argentina		(Federal Government) 52-57%

Source: Income and expenditure of central and local government, published by ADDCN, MoF, MLD/LBFC

In the Unitary States Denmark, Sweden, Finland, Portugal, Holland, Italy, England, Australia and Norway, the share of local governments expenditure in total public expenditure ranges from 17% of Portugal to 57% of Denmark whereas in the federal states such as Germany, Belgium, Austria, Spain and Switzerland such expenditure is only 5% to 17% in Spain. Nepal's position is noteworthy as compared to other countries in this regard. In Nepal, the financial scope of work of the local bodies is only 1.48% of the total domestic production and 7.52% in total public expenditure and remaining expenditure is still under the central government, moreover, in Red Book (Budget) of FY 2063/63 B.S shows that the allocation for the local bodies is only 4.28% of the total national budget. As compared to other countries, the position of the income of Nepal for local bodies is very low and the grant amount provided to them is also equally insignificant.

**Table: Expenditure Pattern of Different level of Governments**

Nation	GDP	The position of local government income in total public income
Denmark		County: 12% Municipality: 21%
South Africa		Province Government: 1.32% Municipality: 20.22%
Brazil	State Government: 8.1% Municipality: 5.5%	25.4% 17.4%
Switzerland		Canton: 32%, Commune: 22%
India	State: 6.3%, Local: 0.6%	
Nepal	DDC: 0.22%	1.80%

	Municipality: 0.44%	3.50%
	VDC: 0.19%	1.51%

Source: Income and expenditure of central and local government, published by ADDCN, MoF, MLD/LBFC

### **The bases of justification of imbalanced resource allocation in Nepal:**

Though the central government has occupied the bigger share of the state coffer, the income and expenditure pattern of the central government shows that it has remained normal and imbalanced as per centralized system. According to the annual report published by Financial Comptrollers Office, the income and expenditure statement of FY 2061/62, if analyzed on regional basis, in the total annual income of about 70 billion and 580 million, the Eastern Development Region has collected 11.18%, the Central Development Region has 77.09%, Western Development Region has 8.85%, Mid-Western Development Region has 1.85% and Far western Development Region has 1.03% only. Similarly, out of the total expenditure of Rs. 102 billion and 560 million, 39% has been spent on development expenditure and 61% for recurrent expenditure. Out of this expenditure,, the maximum of 85% of the expenditure has been spent in the Central development Region whereas only 2% of the total expenditure is spent in The Far Western Development Region. Similarly if we analyze the population census of 2001 on the basis of same report, the central Government has spent Rs. 2713 per head on the regular expenditure and only Rs. 1797 in the development budget. The per capital expenditure is highest ion the Central Development Region with Rs. 4364 per head sine the lowest per Capital expenditure is in the Eastern Development Region amounting to Rs. 322 only. The Western Development Region, Mid Western Development Region has only Rs. 382, 582 and 467 per head respectively. As a whole due to the failure of the old central state structure to allocate the resources in an equitable manner, Nepal has turned into the poorest country of the world even after 50 years since it started planned development.

### **Comparison between the federal countries in their revenue collection:**

The central government of Canada and Switzerland collect 45% of total revenue whereas; the countries under federal system such as Austria, Australia, Brazil, India, Germany and USA collect 2/3<sup>rd</sup> to 1/4<sup>th</sup> of total revenue. Similarly, the governments of Argentina, Malaysia, Mexico, Spain and Venezuela which are under federal system collect revenue amounting to 80% of total revenue, out of that amount, the government of Venezuela which collects 97% revenue itself. The central governments of Nigeria and Iraq collect 87% and 85% of natural resources respectively and take themselves. (Forum of Federation, 2063; page 20)

### **The comparative expenditure of the central governments of federal countries out of their total public expenditure:**

In Switzerland, Canada and Germany, the total public expenditure of Central governments ranges from 35% to 40% in comparison to total government expenditure whereas the Central Government of Australia, Argentina, Brazil and India spend 52% to 57% revenue. Similarly, out of total expenditure of USA, the total expenditure of Central government is more than 60% and it is 78%, 85% and 85% in Australia, Spain, Venezuela, Malaysia and Mexico respectively. The total amount of budget released to the states of the USA is conditional but it is conditional in Canada only amounting to 5%.

**On this basis, it seems necessary to make the following arrangements for the financial allocation, balance mobilization and transfer in the restructuring process of the state.**

- There must be arrangements of inter government transfer so as to maintain the preferential right to the local governments and local communities while mobilizing and sharing the local natural resources. In this context, the local self governments must be given rights of making policies, programs and implementing them regarding the natural resources as water, land, forest and their management, mobilization, promotion, protection and development including the autonomy within their territory. In this context the constitutional provision for providing 80% of natural resources and 90% of property and land tax to local governments, in Indonesia can be taken as a remarkable example of this. For example, we find that various countries have made provisions such as the communities themselves can manage their financial resources as prescribed by law, get revenue and tax from the areas fixed by the government, get subsidies from the state. (Article 65, constitution of Slovakia), right to collect resources from other communities for the matters of mutual benefit (Article 66, constitution of Slovakia)
- while allocating the natural resources, constitutional provision of distributing income of receipt from the natural resources into production sector, so as to reduce it below 13% of the income of the federal governments and the provisions of sharing 50/50% of the income between the province and local governments can be taken as a good example:
- To end the existing discretionary and unequal system by establishing a system in which there is guarantee of providing equal amount of budget on the basis of development indicators, remoteness, poverty and population and price
- Making a provision of mobilization of 70% of the total revenue by the local governments. An arrangement of mobilizing 30% of the revenue to the province or district governments and 40% to the municipal or village governments out of the total revenue received by the local governments.
- Local government block grant must be provided in a transparent and scientific manner. The distributed grants must be based on the fixed criteria and it must be equitable. For this, the unions or federations of the local governments must play a vital role.
- The financial rights of the local governments including taking loans and purchasing securities must be made wide and certain. The loan related issues must be provisioned in the constitution on the basis of rule based control. The provision of taking loan by the local bodies can be found in both system in the countries like Denmark, Finland, Netherland and Latvia, there is a legal provision of getting the unions and federations in a management of loan taking and giving processes.

In short, there must be a clear work division with adequate resources and a mechanism according to the principle of devolution constitutionally in order to make the local governments powerful while restructuring states.

### ***3.8 Guarantee of the administrative autonomy of the local governments:***

- In the government of every level, there must be a bureaucracy (administrative) mechanism accountable to the concerned government and selected by the independent commissions of the respective level governments.
- The local governments must be given the responsibility of the civil police and internal security of the local level.
- The army and the armed police must be trained to democratize it and it must be kept under the central government.

### ***3.9 Develop the decentralized judicial structure:***

- A decentralized judicial system must be adopted after ending the centralized judiciary system.
- The district and appeal courts under the formal judiciary system should be integrated to the provincial or district governments as per the principle of separation of power and checks and balance and making the constitutional arrangement accordingly.
- The village and municipal governments must be given broader judicial right to administer the justice through alternative system and a mechanism should be formed for this purpose.

### ***Finally,***

The issue of state restructuring can't be complete only by using the word "federal". Federalism that is highly advocated without a clear and complete roadmap for the local self government based on democratic foundation and advocacy of the unitary system backed by self centered statuesque ideology can't contribute to benefit the communities oppressed by the centralized state system since hundreds of years based on federalism rather it may promote the interest of the elite and clever groups of the society. Therefore, while making roadmap of New Nepal, it is better to come up above the petty personal interests and thoughts that plead to add some more rights upto the provinces and districts level but we have to open up the new avenues for the local governments to make them powerful and responsible enough to the local communities. There can't be any debate on the issues regarding the form of the state either federal or unitary if there is expression of political commitment constitutionally for the village and municipal governments which have full authority and political, economic and administrative responsibilities and functions. On the basis of principle of subsidiary, despite its name, state or provinces or district, the answer of the issues such as the number and purpose of the local governments above the village and municipal government and its rights, duties and responsibilities can be sought through this process. Therefore, rather than limiting the issue of the state restructuring within the superficial circle of federalism and unitary system, it can be the best alternative of sustainable solution of the multiple problems of the country to address it in a single package by establishing democratic local self governance and its institutional development.

In this context, keeping the experiences and successful practices of different countries under both federal and unitary system in mind, there must be village and municipal governments with clear power and functional responsibilities and on the basis of principle of subsidiary. It can be practical and appropriate to adopt a system in which there is a provision of representational autonomous governments with clear

rights, duties and responsibilities. While discussing about the name of the state, it is unwise to entangle ourselves into the form and name but it must be concluded on what can be done substantially.

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