

ROLE OF THE LOCAL GOVERNMENT OPERATING ACT IN THE EXECUTION OF FEDERALISM AND LOCAL ADMINISTRATION IN NEPAL

Hari Prasad Adhikari

hpladhikari@gmail.com

Tribhuvan University, Nepal

Abstract

This study was to examine the contribution of local government operating Act. (LGOA), 2074 for the implementation of federalism and local governance in Nepal. Descriptive and analytical research design was used in this study. The data collected through questionnaire from 150 respondents was used for analysis. An execution of the contribution of local government Operating Act in Nepal was found satisfactory, but its contribution was found poor because of poor implementation. The findings from this study can provide information about the contribution of local government operating Act for the implementation of federalism and local governance in Nepal. It could be helpful to provide some special guidelines to the policy makers for improving local governance. In addition appropriate policy must be adopted and sound communication and information system should be developed.

Keywords: Federalism Plan, administrative aspect of federalism, responsibility of local government, fiscal autonomy, domestic borrowing and federal government grant.

1. Background of the study

Local governance is a set of institutions and mechanism regarding the process of planning, implementing, maintaining, and evaluating and monitoring the affairs that impact on local population. Likewise, federalism is a mode of government that combines a general level of government. The constitution of Nepal has provisioned the main structure of the federal democratic republic of Nepal in to three levels as namely the, federation, the state, and the local level and three levels shall exercise the process of state pursuant to this constitution and law.

*Dr. Adhikari is an associate professor of Public Administration and Assistant Dean, Faculty of Management, T.U. Kathmandu, Nepal.

Local governance and federalism are mutually inclusive and complementary at times but they are different concepts. Federalism is basically a national political, legislative, institutional and fiscal ~~process whereas local governance can be affected by federalism processes.~~ For example, if the local governments are to provide services that were formerly provided by the national level organizations it may or may not be followed by federalism, representative or participatory democratic processes, transparency, accountability or other defining characteristics of ‘good’ local governance (UNDP, 2021).

Bajracharya (2011), governance has been an overarching development issue for the developing countries. Development challenges for the twenty-first century revolve around the issues of successful governance. To make development efforts people-centered, effective local governance should be ensured. The core issue of local governance is to ensure social justice and make development inclusive. It encourages access and participation of the marginalized people in local development affairs. Governance is participatory, people-oriented, and it involves government bodies, private sector agencies, social groups, communities and the civil society at large in the process. Federalism assumes that local governance encourages local leadership and empowers grassroots level for enhancing local capacity.

Adhikari(2016) and Cheema (2007) states that decentralization/ federalism is not just the transfer of power, authority and responsibility within the government but it also encompasses the sharing of authority and resources for shaping the public policy within the society.

Relevant federal laws and local government operating Act, 2074 B. S. and its administrative aspects built on and improved the existing legal framework for decentralization. Some of its major features and contributions/achievements include the following (Hesselbarth, 2007) are, it legitimized the concept of self-governance and the devolution of (expenditure and revenue rising) functions to local bodies; for the first time, it enumerated the objectives, principles, duties and responsibilities and inter-agency relationships for local governance in the country; it provided financial support to local bodies through revenue assignments, central government grants and domestic borrowing; operational autonomy to set up organizational structures/positions; for accountability and transparency mechanisms, for setting up a local

government service cadre, and for ensuring representation of women and disadvantaged groups, among others;

2. Statement of the Problem

The present Constitution of Nepal that was issued on September 20, 2015, has divided the country into 7 provinces where there are 3 levels of government, central, province and local government. Article 50 (1) of the present Constitution states: the political objective of the state shall be to establish a public welfare system of governance, by establishing a just system in all aspects of national life through the rule of law, values and norms of fundamental rights and human rights, gender equality, proportional inclusion, participation and social justice, while at the same time protecting the life, property, equality and liberties of the people, in keeping with the vitality of freedom, sovereignty, territorial integrity and independence of Nepal, and to consolidate a federal democratic republican system of governance in order to ensure an atmosphere conducive to the enjoyment of the fruits of democracy, while at the same time maintaining the relations between the federal units on the basis of cooperative federalism and incorporating the principle of proportional participation in the system of governance on the basis of local autonomy and federalism. Following factors are critical to consolidate federalism and LG (Nepal 2007) and (Adhikari, 2016): federalism could be achieved with proper institutional arrangements, Constitutional and legislative frameworks are vital and should be self-explanatory in many cases, a number of central level, regional level and local level institutions are required to support local governance, particularly, resource mobilization policies and practices are to be placed in different levels of federalism, in this context, the researcher has attempted to answer the research question as: How far are the provisions made by the local government operating Act., 2074 B.S. being practiced for improving local governance in Nepal?

3. Objectives of the Study

The purpose of this study is to analyze the extent of local governance in relation to federalism in Nepal. The specific objective of the study is to examine the policy issues related to federalism for local governance in Nepal.

4. Limitations of the Study

This study focuses only on the general policy of federalism to make the local governance effective. The study is as have been chosen on the basis of researcher's convenience.

The perception analysis might not represent the entire national state. Despite the efforts to make the respondents aware about the federalism and local governance, due to the difference in level of the respondents there might have been some biasness in the response which is not considered in this study. This study was conducted in execution period of federalism.

5. Review of Literature

Under the Review of literature various aspects on concept of federalism and local governance are deliberated.

5.1 Concept of federalism

Federalism is a government mode combining general (federal/central) as well as regional levels of sub-unit government (state/province/territory) as well as diving the governing power amongst each levels of government.

In Nepal there are 7 province, 77 districts as well as 753 local levels under the federal system (MoGA, 2017). Each of the provinces of Nepal has its own government whereas there is also one federal/central government in Nepal.

Nepal has a history of unitary culture where there are various cultural, multi-ethnic and religious aspects. Therefore for the federal units like provinces, there is a greater level of challenge in substituting federal culture in place of unitary political culture. In the initial stages, a certain sense of competitive federalism can be observed with each province offering their own kind of benefits, taxation and services in order to achieve a greater level of efficiency in social and economic terms. The unitary system or central system has largely failed in providing as well as mobilizing various resources of local levels in striking a balance development. Therefore, there lies an important role for local government in distributing the opportunities and providing access, rights, security as well as participation to all kinds of marginalized, poor people and exploited people.

The new Public Management movement of the 1990s focused on the government being innovative, market-oriented, decentralized, and offering their 'customers' the highest quality services. According to it, the government should "steer rather than row" i.e. instead of always delivering the services directly it should oversee the service provision by encouraging local

groups to solve their own problems and privatize activities that can be carried out more effectively and efficiently by the private sectors or NGOs.

There have been pressures for governments to federal due to federalism in the 21st century. Foreign direct investment has increased where the government has created a strong national business climate, where 'location assets' in towns, cities, and regions are well developed and where local governments can provide the services, infrastructure, quality of life and other support for foreign-owned domestic firms.

5.2 Understanding Local Governance

UNDP, 2004 defines Local governance as local governance comprises a set of institutions, mechanisms and processes through which citizens and their groups can articulate their interests and needs, mediate their differences, and exercise their rights and obligations at the local level. The building blocks of good local governance are many: citizen participation, partnerships among key actors at the local level, capacity of local actors across all sectors, multiple flows of information, institutions of accountability, and a pro-poor orientation (UNDP, 2004).

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Looking beyond the narrow perspective of legal frameworks and local government entities has been emphasized by local governance. The multiplicity of formal and informal relationships between different actors in development for instance, local government, private sectors and CSOs which outline and influence the effectiveness of political and administrative systems at a sub-national level has been included in it.

There is a large degree of synergy and coherence between supporting national governance processes and local governance, as many of the aspects are in fact the same. Therefore, it is necessary to work with governance principles at local levels to strengthen local governance processes.

Strong institutions at central and local government level are needed for effective local governance which would bring together all the stakeholders, to work in partnership for local governance; both the local and central government institutions must be strengthened. There is

need for institutional buildings in all the sectors. (Kauzya, n.d).An effective local governance mechanism plays a critical role in economic development and social justice (Haque,T.M. 2009).

According to Oslen (2007), “The main differences between decentralization and local governance are in the actual actors participating in the process and the mode of interaction between governments, the private sector and civil society. Decentralization pertains to public sector institutional and organizational reforms and processes and the support thereof, whereas local governance pertains more to supporting the creation of an enabling environment where multi-stakeholder processes - including public and private sector, as well as civil society”.

Based on the experiences and lessons learned in this field by eminent experts and practitioners, the key policy messages and recommendations for local governance-decentralization, or Decentralized Governance, can be summarized (Rojas R. , 2014) as follows: There is need of sustained commitment, coordination and strengthened capacities of all stakeholders at various levels for poverty reduction through decentralized governance; there must be an enabling environment at the national/central level in order to ensure devolution of power/authority to the local level for community empowerment; there is need to give importance to administrative and fiscal decentralization and not just political decentralization, in order to contribute to poverty reduction; participatory monitoring and evaluation at all levels should be given emphasis for effective decentralization; initiatives of decentralization should be context specific for motivating local people for their own development.

6 Methodology

The present study is based on the survey design. An interview schedule was administered in 2023. For analyzing "Contribution of local government operating Act, 2074 B.S. for the implementation of federalism and local governance in Nepal", the population for this study was taken from two districts – Kathmandu and Kaski. Convenience sampling was done. The population was comprised of local people, local leaders, govt. officials, academics, NGO/CBO officials and employees of local level governments . Sample size of 150 was taken from an infinite/unknown population. Purposive quota sampling technique was used. The quota was

determined on the basis of the size of population and researcher convenience. Variation of elements of federalism, were measured by the in terms of the variation of group of stakeholders.

7 Result and conclusion

The result and conclusion below provides an overview of research on contribution of LGOA for improving local governance.

7.1 Contributions of Local government operating Act, 2074 B.S

The local government operating Act, 2074 B.S) marks a major milestone in the federalism process in Nepal. The LOGA and its administrative built on and improved the existing legal framework for federalism. Some of its major features and contributions/achievements include the following: It legitimized the concept of self-governance and the devolution of (expenditure and revenue raising) functions to local governments, For the first time, it enumerated the objectives, principles, duties and responsibilities and inter-agency relationships for local governance in the country, It provided financial support to local bodies through revenue assignments, federal government grants and domestic borrowing; operational autonomy to set up organizational structures/positions; for accountability and transparency mechanisms, for setting up a local government service cadre, and for ensuring representation of women and disadvantaged groups, among others, It helped develop a “federalism Implementation Plan”, with short and long term actions aimed at speeding up the federalism process; and a federalism Implementation Monitoring Committee was set up, together with a Working Committee to oversee its implementation, It also provided for a government fiscal Commission, to make recommendations to promote fiscal autonomy and fiscal federalism/decentralization(Adhikari,2013) and (Hesselbarth, 2007)..Respondent's view regarding Level of the contribution of LGOA for Improving Local governance is shown in the table 01

Table: 01 Level of the contribution of LOGA for Improving Local governance

Contribution of LOGA	level of Contribution					Weighted Mean Score (Range=1 to 5)	Rank
	VH	H	N	L	VL		
a. Helping to develop federalism	20	98	30	1	1	3.90	1
b. Specifying the responsibility of local government	6	76	63	5	-	3.55	2
c. Promoting fiscal autonomy and fiscal federalism.	1	19	98	29	3	2.91	3
d. Making local government politically autonomous through federalism	2	27	73	45	3	2.87	4
e. Making local bodies financially autonomous through the combination of domestic borrowing and federal government grant	1	5	78	62	4	2.57	5

Number of respondents: 150

The views expressed by different respondents as listed in above table 01 on the level of the contribution of LGOA for improving local governance. As stated above, level of contribution of LGOA, helping to develop decentralization development plan and specifying the responsibility of local governments were found strong because the weighted mean score value of them are 3.90 and 3.55 which are greater than the median value 3.0. As the Ministry Of Federal Affairs and Local Development (MoFALD) itself develops the plan, there is high level of contribution of LGOA for helping to develop federalism. Likewise, the causes for high level of contribution of LGOA for specifying the responsibility of local governments are it enumerated the objectives, principles, duties and responsibilities and inter-agency relationships for local governance in the country.

On the other hand, promoting fiscal autonomy and fiscal federalism, making local governments politically autonomous through federalism and making local governments financially

autonomous through the combination of domestic borrowing and federal government grant, are weak because the weighted mean score value of such are 2.91, 2.87 and 2.57 which are smaller than the median value 3.0. The cause for the weak contribution of LGOA for promoting fiscal autonomy and fiscal federalism is that the fiscal autonomy has not been prioritized. Likewise, the causes for weak contribution of LGOA for making local governments politically autonomous through federalism, and lack of will power in political leadership to treat the local governments as autonomous structures and ignorance of local autonomy by both political and bureaucratic leadership. Also, the cause for the weak contribution of LGOA for making local governments financially autonomous through the combination of domestic borrowing and federal government grant is that the local governments are heavily dependent on grants.

7.3 Conclusion

Federalism is the youngest form of decentralization. Decentralization encompasses delivery of public services either by deconcentration, delegation or devolution of authority to unit or institutions at the lower level of governance. Decentralized system of governance is a means of promoting effective local governance, democracy, poverty reduction and development. Nepal adopted decentralization as a process of mobilizing people's participation in development since 1960. The constitution of Nepal 2072 has adopted decentralization and local autonomy as a principle of inclusion in the system of governance of the country. Local government operating act has further clarified the roles and responsibility of local governments for federalism. In such context, it is relevant to seek the key issues of the federalism that affect the local governance in Nepal.

The milestones of federalism include approval and enactment of Local governments operating Act,. The creation of a high-level Article 50(1) of the Constitution of Nepal 2072 has made some provisions regarding decentralization. But the constitution is yet to be executed.

The level of contribution of Helping to develop federalism; and Specifying the responsibility of local governments were found high (i.e. weighted mean score were 3.90 and 3.55 respectively) which were higher than the median value i.e. 3, whereas the mean score of Promoting fiscal autonomy and fiscal federalism; Making local governments politically autonomous through federalism; and Making local governments financially autonomous through the combination of

domestic borrowing and federal government grant were 2.91, 2.87 and 2.57 respectively which were smaller than the median value.

Local government operating Act is found to be the milestones of federalism in Nepal. Nepal has been restructured from a unitary government to a new Federal Democratic structure. Article 50(1) of the Constitution of Nepal-2072 has made some provisions regarding decentralization.

The contribution level of LGOA in helping to develop federalism; and Specifying the responsibility of Local governments were found good because their weighted mean score was greater than the median value, whereas the contribution level of LGOA in Promoting fiscal autonomy and fiscal federalism; Making local governments politically autonomous through federalism; and Making local governments financially autonomous through the combination of domestic borrowing and federal government grant were found weak because their weighted mean score was smaller than the median value. It concludes that, federalism of Nepal was found satisfactory, but its contribution was found poor because of poor implementation.

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