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Magar youths dance to celebrate the Maghi festival in Kathmandu. Magars are one of Nepal's larger indigenous ethnic groups. They make up seven per cent of the total population.

Drawing the federal map of Nepal

Agreement needed on inclusive democracy and the powers of the constituent units.

BY NICOLE TÖPPERWIEN

Nepal's interim constitution is straightforward: it states that Nepal shall have a "federal system of governance." The Constituent Assembly has the task of filling these words with life.

The debate on federalism in Nepal is active and heated. One of the hardest nuts to crack seems to be these two questions: "What will be the basis of federalism in Nepal?" and "Should Nepal adopt ethnic federalism or would this be a recipe for disaster?"

The current territorial organisation is easier to map. For administrative purposes, Nepal is currently divided into about 4,000 Village Development Committees (VDCs) and municipalities at the local level as well as 75 districts, 14 zones and five development regions. Actual decentralization, however - national legislation aimed at devolving powers to VDCs and municipalities - was never fully implemented. Nepal has remained a highly centralized state. Federalism shall change this.

Now the questions get tougher. In the coming months, the Constituent Assembly (CA) is expected to establish a new, middle level of government. It is not clear yet what these new constituent units will be called. Currently, the terms 'province' and 'state' are most frequently used. The introduction of federalism shall vest the to-be-created constituent units with their own powers and resources as well as with special representation at the centre.

In any discussion, whether among political actors, civil society leaders,

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experts or the general public, the following questions almost inevitably come up:

- What shall be the basis of federalism in Nepal?
- How shall constituent units be constituted?
- Shall constituent units' boundaries be established primarily based on ethnicity?
- Should the basis be other factors instead, such as economic viability and availability of natural resources?

Political parties and scholars alike have been proposing maps which outline constituent units' boundaries for Nepal. More than 15 maps are currently circulating, and these maps are proof of very diverse approaches.

Protecting ethnic identities

Why are ideas about how to form constituent units so far apart? The answer can partly be found by looking at why federalism has been proposed in Nepal. Two main reasons are normally mentioned. On the one hand, federalism is advocated to help end marginalization of disadvantaged groups and regions by improving self-rule and representation (shared rule). Especially Madhesi groups from the plains (Madhes/Terai) but also Maoists advocated for federalism in order to bring an end to the marginalization. On the other hand federalism is advocated to promote democratization and foster development for all throughout the

country. Both concerns, the eradication of marginalization and the promotion of development, are genuine and seem to be shared by a majority of actors and activists. Both aim at strengthening the state. However, there is disagreement as to how these two aims can be achieved and where priorities shall be.

Those who promote federalism as a means to protect identity groups and to end marginalization tend to advocate for a federalism that acknowledges ethnicity or regional identity. For the creation of constituent units, they suggest putting focus—not exclusively but primarily—on actual or traditional settlement patterns of ethnic or linguistic groups. Indigenous groups and prominent Maoist leaders, in particular, perceive of a form of federalism that takes ethnicity into account as necessary for harmony and unity among different communities. Regional political parties from the Madhes/Terai have their own vision for establishing constituent units. They advocate that the plains, stretching 1,000 km from east to west, should form one province. Madhesi leaders argue along the lines that if Madhesis are united in one constituent unit this can best guarantee the end of domination.

Should ethnicity or the economy set borders?

Those who oppose predominately 'ethnic' and Madhesi proposals argue that these notions threaten national unity. One political leader stated that "ethnicity-based federal structure will ultimately invite civil war in the country." They also point to another challenge. In

Nepal there are about 100 ethnic groups and more than 70 linguistic groups. Additionally, settlement patterns are complex. Only in a small number of districts does one group form more than 50 per cent of the population. In many others, no group has a clear majority, according to the census of 2001. Not even 100 constituent units would bring about pure ethnic-based federalism unless ethnic groups as such receive the status of constituent units. Any kind of territorially-defined constituent units will inevitably provide mixed populations. The fear is that ethnic federalism might uplift some groups who could then use their new power to dominate others within their constituent unit.

The notion seems to be spreading that control over a constituent unit based on a relative or absolute majority is necessary to protect a group's rights. For instance, new demands for their own constituent unit by Tharu groups in the South follow this logic. The current debate on 'ethnic' or identity based constituent units seems to lead to the mobilization of various communities that fear they will end up as a minority in a constituent unit controlled by another group. Proposed names for constituent units that refer to the dominant group further increase these concerns.

The other approach focuses on development and on an equitable resource allocation. Some propose constituent units that encompass the major river basins, run from North to South and include mountains, hills and plains. To some extent, they rely on the already existing zonal and regional structures. Proponents of this approach argue that if constituent units stretch from North to South comparable economic conditions can be created. In their view only such an approach can foster development for all. The mountains, hills and plains are interdependent and dividing them into different constituent units would create barriers of development and provoke conflicts between constituent units, such as disputes over water.

However others fear that the advocates of North-South proposals are not serious about changing the way Nepal is governed and that the proposed constituent unit structure will lead to the continuation of marginalization and elite rule. It can be expected that such North-South proposals will meet resistance.



REUTERS/GOPAL CHITRAKAR

People walk through a mustard field at Chitwan district, some 150 km south of Kathmandu. Chitwan is the largest producer of mustard oil in Nepal.

Additionally, though such an approach might limit conflicts about resources between constituent units, it could lead to resource conflicts within constituent units.

Drafting a mixed model

All approaches have their merits – and they were developed to address genuine concerns and root causes of conflict. However they also provoke new concerns that have to be taken seriously. How can these different approaches be reconciled? Unfortunately, law and international experiences do not provide guidelines and easy-to-copy recipes for how to establish constituent units. International experts, to the same degree as Nepali experts, will disagree about the most adequate basis of federalism. In the end, political actors will have to convince their opponents and the people that the proposed federal system will address the major concerns and will not further entrench existing dominance structures or create new winners and losers.


Comparative experiences show that not only the actual boundary lines of constituent units will determine whether constituent units are acceptable to their populations but also other factors. To reconcile the different approaches might

require agreements that do not concern the basis of federalism as such but that combine federalism with an agenda of inclusiveness and development and thus reassures all, individuals and groups alike, that their major concerns will be addressed no matter how constituent units are designed. Such pre-agreements might smoothen the way to constituting constituent units' boundaries.

Ending marginalisation

Marginalization can also be addressed by the protection of minority rights by the central government and by guarantees of inclusive institutions and governance at all levels. These guarantees – which could also be set out at the constituent unit level – could include proportional representation, reserved seats, positive discrimination for vulnerable groups and centrally-mandated policies or minimum standards for the promotion of different groups. If necessary, identity groups can also be granted powers in areas such as culture or education. Possibilities of co-operation among groups across constituent units' boundaries might further reassure communities.

For promoting development, a country-wide development strategy can be promulgated, co-operation and resource-sharing between constituent units can be encouraged or made mandatory, and fiscal equalization schemes can be designed to address regional differences. Last but not least, dispute resolution mechanisms within constituent units and among constituent units can be put in place.

Agreeing on boundaries – even internal boundaries – tends to be one of the hardest tasks decision-makers can be confronted with. To have reliable data on the population as well as on resources is crucial and can help. However, in the end boundaries cannot be established by mathematics. Decision makers will have to provide convincing reasons to the people of each constituent unit that it is both risk-free and worthwhile to belong to their constituent unit. As such, identifying these reasons will be even more important than agreeing on the basis of federalism. One thing will facilitate the process: all political actors want a strong Nepal that belongs to all groups and citizens and provides development for all. 



A young Nepali street vendor sells jewellery. She and other poorer citizens will be putting pressure on Nepal's politicians for economic reforms.