

# The Quest for Federalism in Nepal

An educational video produced by  
the Forum of Federations

## Facilitators' Guide

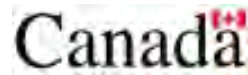


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## Preface

The Canadian-based international organization Forum of Federations has produced this educational documentary video as a training tool. The video portrays the transition to democratic federalism in Nepal, as of the spring of 2016. It endeavours to portray the very great range of opinion that exists in Nepal among the numerous groups and political actors. Perhaps more importantly, it also aims to explain the nature of the federal system that is now being implemented in Nepal.

In preparing the video, the writer and director conducted a large number of interviews in Nepal. He spoke with Nepali citizens from a great variety of social and political groups, and, as well, interviewed experts from other countries, including South Africa and India.

The current situation in Nepal is complex and challenging. The country has endured a great deal of turmoil in recent times. Among its other challenges, there have been: a long period of armed struggle or insurgency, a violent rupture in the erstwhile royal family, and the death and devastation wrought by the 2015 earthquake. Nepal's second Constituent Assembly (CA), which formulated the democratic federal constitution of 2015, did so with full awareness of that recent history of strife and hardship. The CA was also keenly aware of the historically disadvantaged position of many elements of Nepali society, including the Dalit (the so-called untouchables) and the Indigenous people. Many who comment in this video discuss and reflect upon those facts, from a variety of perspectives.

The Forum of Federations expects that groups and individuals will use this video in many different ways. The video could serve to set the stage for discussion or debate in workshops. It could help provide basic information about federalism for classroom use. It could be used in training programs for government and political party officials. Or it could provide an educational resource for civil society and professional groups seeking to engage with the governance process. The Forum invites you to use your own creativity in devising ways to make use of this video as a learning tool, whether in a classroom, an office, a community facility, or in your own home. This short guide for facilitators contains summaries of the three parts of the video, and suggested questions for discussion, for each part. They are only suggestions. The Forum is certain that viewers of the video – and participants in events that make use of it – will have many questions and comments of their own.

## Contents

1. Overview and basic principles.
2. Geographic and socio-economic factors influencing the federal process in Nepal.
3. The promise of and challenges for federalism.

## Part 1: Overview and basic principles

This part of the video explains that in September 2015 Nepal promulgated a new constitution, after its adoption by the Constituent Assembly. That constitution establishes Nepal as a federal republic. Another and related goal of the constitution is to create an egalitarian society by ending social discrimination.

Surya Dhungel, a Nepali university professor and constitutional expert, explains that after trying, and failing, to decentralize power through a unitary system, the people of Nepal “demanded a constitutionally supported federal system to be devised so that the grassroots would have a say in government, and the government will be close to the people.”

The current Deputy Prime Minister, C.P. Mainali, of the Communist Party of Nepal, Marxist-Leninist, addresses the issue of diversity and discrimination.

“We are a multi ethnic country,” he says, “There are a great many ethnicities and we have other geographical diversities also. There has been discrimination along ethnic lines, along regional lines, along gender lines, along caste lines; but this constitution has many provisions which ensure equality among all different communities.”

The video explains that federalism means divided and shared sovereignty. In a federal country, also called a *federation*, a central government shares power with what are called *constituent* unit, or, sometimes, *subnational* governments. The *constitution* of a federation defines the roles and responsibilities of the different orders of government.

Part one of the video then goes on to describe one important and specific feature of the Nepali version of federalism, namely the fact that the new federal constitution of Nepal opts for *three* orders of government. It assigns powers and duties to each, through three exclusive lists and two concurrent lists of competencies. The lists of competencies are long and complex. The video gives this summary:

Nepal’s *national* or *federal* government will have responsibility for national security and the armed forces, human and cultural rights, water resources, and overarching health and education policy.

The *provinces* will be responsible for provincial roads, infrastructure, land management, and for implementing national policies in advanced education and in health.



*Local* governments will deal with municipal police, primary schools, cooperatives, local transport, and basic health and sanitation.

In addition, the constitution enjoins all three orders of government to cooperate on matters vital to the peoples' daily lives. That latter point is crucial, because a federal system depends on well-maintained inter-governmental relations and a healthy spirit of cooperation between and among orders of government.

The video then focuses on the particular role the constitution foresees for local government. Not every federation includes local government as a distinct, constitutionally enshrined order of government. Nepal chose to do so, the video explains, in order to give people at the grassroots power over their own lives. As Surya Dhungel puts it:

“In the unitary system every issue came to the centre ... This process was very tedious in the past as it required people to travel, unnecessarily, ... to the centre, and they had to wait for their turn. Now, when they will have an elected local government close to them ... they won't have to come to the centre to solve each and every issue.”

## Questions for Discussion

1. Why is Nepal pursuing a federal system?
2. Why does the new Nepali constitution call for three orders of government and not two?
3. What are the main responsibilities assigned to the three orders of government -- the national, provincial and local? In your view are these areas of responsibility appropriate to each?
4. Why is the constitution concerned with the issue of discrimination against disadvantaged groups?
5. Do you believe the new federal and democratic system will be successful in redressing historic discrimination?



## Part Two: Geographic and socio-economic factors influencing the federal process in Nepal

This part begins with a general description of Nepal's geography and society. The population is nearly 29 million. The country is sandwiched between giants India and China, and has three main geographic zones: the Himalaya Mountains in the north, the hill area in the middle, and the fertile plains (or Terai, the Madheshi area) in the south. Nepal is located in a seismically active region of the globe, and it suffered a massive earthquake in April 2015, from which parts of the country are still recovering.

Economically, Nepal is a developing country. It is still primarily agricultural, but has come to depend, to an ever-increasing extent, on remittances from Nepalis who work abroad. Today, more than half of Nepali families depend on such remittances. As sociologist Ganesh Gurung, a member Nepal's National Planning Commission, puts it: "1500 people every day are going to the countries of the Persian Gulf and to Malaysia. Because of that, poverty is drastically going down."

Tourism is often seen as an important industry in Nepal, but Gurung points out that its economic importance is relatively small.

"We have tourism, but tourism accounts for only three to four per cent of the Nepali economy," says sociologist Gurung, "So tourism is exploited by the largest city, Kathmandu, [and by some other regions], and by the richer class of people, but it has not benefitted the poorer people."

Nepal also has significant, but for the most part unexploited, water resources.

"We have abundant resources of water in Nepal," Gurung explains, "We have the potential to generate 82000 megawatts of electricity; but, so far, only 700 megawatts is being generated. That's why we don't have enough electricity for the entire nation and face the problem of load shedding throughout the year. During the dry season, most of the power plants in Nepal are out of water. As a result, there is a huge shortage of electricity during the summer."

This part of the video then turns to the question of Nepal's ethnic and cultural diversity. In the words of Bal Krishna Mabuhang, a professor of population studies at Tribhuvan University in Kathmandu:

"Nepal is a country of diverse social, cultural and linguistic groups. The latest national census reported that there are 125 ethnic and caste groups. Ethnic groups connote most of the traditional social groups and they are called Indigenous nationalities."

The video, here, addresses the specific issue of caste. It points out that one of the enduring features of Nepali society is the caste system. The fact that historically there have been upper, middle and lower caste, and, notably, the *Dalits*, or so-called "untouchables," is a major challenge for current Nepali politics.

Sunita Shah, who is vice-president of the royalist Ratriya Prajanta Party's women's organization and herself from an upper caste background, comments on the discriminatory aspects of the caste system.

"The name of castes were usually derived from occupations which were considered to be hereditary," Sunita Shah explains, "For example, the Sunars were iron-smiths, and the Sarkis leather-workers. The people from the lowest caste, the Dalits, were considered as untouchable. There were minute rules as to what sort of food or fruit high caste person could not accept from a Dalit. Holy water was sprinkled as a way to purify people from higher castes every time they were touched by people from a lowest caste."

Chandra Bhahadur Bisokarma – who works with the Dalit Forum, a sister organization of the Unified Communist Party of Nepal (Maoist), and is himself a Dalit – confirms Sunita Shah's observation.

"The discrimination from so-called upper castes was very common," he says, "They did not eat the foods provided by us, didn't allow us to touch or stay close to them, and they barred us from entering their homes. We were declared impure for higher caste people and higher caste people needed purification or to be sprinkled with holy water if we touched them."

Aside from the Dalits, the video says, many other groups believe they have been historically disadvantaged. These include the Madheshi people of the southern plains, and the Janajati, or tribal minority groups, many of which are in the hilly areas. Brikhesh Chandra Lal is vice-president of the Terai Madhesh Democratic Party and he discusses the grievances of the people he represents:

“The marginalized communities in Nepal, the Madheshis, the Indigenous people, it is about their dignity and respect,” Chandra Lal says, “It is about creating a conducive environment for them so that they can be a part of, and work in, the political mainstream. That has not been realized. We are now struggling for that.”

Finally this section of the video alludes to the fact that, in addition to ethnic and caste divisions, there is the disparity between urban and rural Nepal. Rural people in Nepal do not benefit from the same level of service as do those in cities, nor do they have the same employment opportunities.

### Questions for Discussion

1. How does the geography of Nepal have an impact on the country's politics?
2. Discuss the impact of remittances on Nepal's economy and on Nepal's political system.
3. Why has Nepal not yet fully harnessed such natural resources as water? Will the new federal constitution help Nepal to more fully exploit its wealth, for the benefit of all Nepalis?
4. How will the new constitution address the historic discrimination against Dalit people? Do you think it will succeed? Why or why not?
5. What is the importance of federalism for Nepal's Indigenous groups?





### Part Three: The promise of and challenges for federalism

Part three of this video looks to the future. Some, such as Pampha Bhusal, a former Minister for Women, Children and Social Welfare, with the Nepal Communist Party (Revolutionary Maoist), express a highly optimistic view.

“In case of the distribution of state resources in a proportional manner, one should consider that Kathmandu or other cities have enjoyed certain facilities thus far,” Bhusal says, “For instance, there are no inadequate drinking water facilities in villages, wherein majority of the people live. Nepalis who live such villages cannot even get cetamol tablets for the treatment of fever. And, for the lack of employment opportunities, people from villages are compelled to work in Gulf countries and other foreign lands. We are blessed with natural resources in Nepal, but the situation does not allow for their utilization. Such a situation is bound to end. And within a short span of time, we can be a country that can achieve big gains of development. If we could properly lead, if federalism could be rightly managed, if we could move forward in that manner. I don’t think anyone is as fortunate as we are.”

Bimala KC, of the Unified Communist Party of Nepal (Maoist), shares a similar hope.

“The very policy of including all the disadvantaged groups in the state and government structures, is but the policy of federalism,” she argues, “That is also the very spirit of the present constitution. Dalit, indigenous peoples, marginalized groups, linguistic minorities, and women have been in a very disadvantageous situation. After the adoption of the interim constitution, they are undergoing improvements in a gradual manner.”

There is one issue which is notionally resolved and settled, but which still arouses considerable concern – and about which there are continuing deep differences. That issue is the demarcation of the boundaries of the provinces. The video explains that early in the federal design process many of Nepal’s Constituent Assembly members favoured demarcation of provinces on ethnic lines. Madheshi leaders, such as Brikesh Chandra Lal, are among those who favoured such a demarcation.

“Demarcation is the most important issue for us, because demarcation can guarantee self-rule for us,” says Chandra Lal. “In the Terai, demarcation should be done so as to

satisfy the people of Terai. The Madhesh, in itself, has much diversity, where people are living in harmony. Through demarcation, people will have the sense of self-rule, and a sense of their own identity.”

Many among the Madheshi people have long argued for distinct provinces in the Terai, or southern plains, region. However, the video points out, a great many others now say ethnic demarcation in Nepal would not be practical. C.P. Mainali is in that latter group. He says the ethnic composition of Nepal is too complex to allow for a demarcation of boundaries that would give the many groups their own territories.

“In the Nepalese context it is very difficult to give identity by naming the provinces in certain ethnic names,” Mainali asserts, “We have a great many ethnicities and none of the ethnicities constitutes the majority in any province. The largest group is the Khas Arya. They have a big population. Their percentage of the total is 38.8. The second largest is the Madheshi Aryan population. Their population is 18.8 per cent of the total. Then come the Magar, Gurung, Rai, and others having 7, 6, 5, and 1 per cent of the total. Some have only 0.5 per cent or less of the population. That’s why it is quite difficult in Nepal to carve up the provinces according to the ethnic populations. However, ethnicity is recognized by the constitution in other ways. These questions, in my opinion, should not intermingle with the question of demarcating the provinces.”

The video points out that current plans do not involve ethnically based provincial demarcation, although there is not yet a final decision. Some still hope their demand for territorial recognition of ethnicity can be accommodated in some way.

“Democracy has brought about a lot of changes, and has brought about big change in the Nepali society. That is why I am happy,” says Brikhesh Chandra Lal, hopefully, “The struggle that we were engaged in to have democracy established was not futile after all... Nepal has surged forward in all areas.”

Indian expert Ash Narain Roy counsels all parties and groups in Nepal not to focus excessively on the issue of ethnicity.

“People seem to be too obsessed with ethnicity, language and local culture and all that,” Roy comments. “While the concern for preserving their identity or cultural identity and language is important, there is also a danger, because Nepal is a small

country. Some of the linguistic groups are too tiny and some of the ethnic groups are also too small, and not necessarily territorial based.

The video concludes by pointing out that federalism alone will not solve all of Nepal's many problems, any more than federalism, on its own, has solved the problems of other, long-established federations. The task now, the video states, is for Nepalis to work together in a spirit of compromise and tolerance. The video then adds that as Nepal seeks consensus on its new federal system, there is much it can learn from others.

Here, the video quotes the views two South Africans with considerable experience of a successful transition to a democratic, decentralized system. The first is Sydney Mufamadi, who was a minister in the first post Apartheid government led by Nelson Mandela.

“Learn from others, but the solutions to your problems must be as novel as your own analysis tells you,” Mufamadi counsels, “The key to everything you do is to ensure that your system of government maximizes possibilities for the participation in influencing policy and decision-making by the people themselves. Even in instances where you may lack the administrative capacity to deliver as rapidly as your people expect, at least they must have an understanding of what is feasible within what timeframe, so you work together with your people alongside you.”

South African governance expert and jurist Jaap de Visser adds that in implementing a new decentralized or federal system one must be patient.

“It doesn't happen with the stroke of a pen,” de Visser advises. “It takes years and years of building new institutions, breaking down old institutions, changing cultures, changing mindsets... We in South Africa took a lot of time to transform the local government system, because we knew it was going to be complex and we had existing structures that had to merge, that had to be transformed, that had to be given new powers. So the key lesson is to be deliberate about the rather mundane issue of transition.”

## Questions for Discussion

1. Why are some who speak in the video optimistic for the future success of federalism in Nepal? Do you share their optimism? Why or why not?
2. What are the differences of opinion on the issue of demarcating the boundaries of provinces in Nepal? How might these differences be reconciled?
3. Can a new federal system solve all or most of Nepal's economic and social problems? Explain.
4. What can a new federal constitution do, concretely, to address at least some of the economic and social challenges facing Nepal?
5. What are the benefits for Nepal of studying how other countries practice decentralization and federalism?
6. Some international experts counsel patience in implementing a new federal constitution. Why do they give that advice?
7. Others advise Nepalis to learn from others, but seek your own unique solutions. Is that what Nepal is, in fact, doing now?





## Credits and Acknowledgements

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