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# Democracy and peace in federal Nepal



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# **Democracy and peace in federal Nepal**

**March 2018**

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# Executive summary

During and following all three tiers of the 2017 elections, the configurations of power shifted in Nepal, thereby affecting the nature of contention in politics and society. This policy paper analyses the changing nature of peace and conflict in relation to the recent elections and the post-election context. As conflicting political parties are claiming that the peace process has come to an end (officially taking off with the signing of the Comprehensive Peace Accord in 2006), particularly after the promulgation of the 2015 Constitution, this policy paper underscores that claims over jurisdiction and resources between the federal, provincial and local governments are the dominant forms of conflict. The immediate policy priority is clear: sensible cooperation and collaboration in consolidating democracy and peace, and institutionalising federalism.

Two urgent responses for conflict resolution would be the formation of a Natural Resources and Financial Commission (NRFC), as stated in the Constitution, and the formulation of federal legislations. The latter should be the basis for ensuring “coexistence, coordination and cooperation” between all three tiers of government as mentioned but not well defined in the Constitution.

As so little has been done to improve the quality of public services following the end of the armed conflict (1996–2006), many recommendations – such as enabling meaningful community participation and formulating anti-corruption laws and regulations to improve the efficiency and quality of public services – from various actors and institutions are pertinent.

This policy paper calls for a deeper understanding of social exclusion and its interconnectedness with issues of unaccountable public institutions. One response is to enable and strengthen civic engagements and oversight mechanisms at all levels, involving members from marginalised groups. Equally important is promoting evidence-based public dialogues about existing inclusion/exclusion provisions. These provisions – as well as current practices that have many shortcomings – must be reviewed openly to ensure that inclusion/exclusion goes beyond ‘face value’. Such public dialogues should be connected with longer-term objectives of making public institutions representative and responsive, and expanding employment opportunities for marginalised groups in order to minimise social divisions and political conflicts.

# Introduction

Following the 2017 three-tier elections, the configurations of power shifted in Nepal, thereby affecting the nature of contention in politics and society. In the election process, the alliance between the two main conflicting parties, the Communist Party of Nepal (Unified Marxist-Leninist, CPN-UML) and the Unified Communist Party of Nepal (Maoist Centre, UCPN-MC) has changed the nature of political contestations and conflict. Subsequently, the nature of social polarisation has also changed.<sup>1</sup> The main challenges the country faces now are consolidating democracy and peace, and institutionalising federalism.

The left alliance has culminated in a surprising result of Nepal's first-ever federal elections, with a new path forged for consolidating democracy and peace, and institutionalising federalism. The lie of the land for the main parties has changed substantially. The CPN-UML and UCPN-MC are in the driver's seat together and are also expected to push forward a process of party unification.<sup>2</sup> The Nepali Congress (NC), coming in a distant second, will be the main opposition. The NC will have to cope with the expansion of the left front, and will need to find ways to revitalise party structures and reconnect with the electorate. Despite facing internal and external crises, the Madhes-based parties – the Federal Socialist Forum Nepal (FSFN) and the Rastriya Janata Party Nepal (RJPN) – showed a strong presence in Province No. 2, signalling the need for structural changes in federal politics.

Nepal started to actualise its constitutional provisions of the three-tier elections starting with the local elections. On 14 May, 28 June and 18 September 2017, elections of 753 village councils and municipalities were held in three phases<sup>3</sup> – an unprecedented achievement given that no local elections were held for almost 20 years due to the decade-long armed conflict.<sup>4</sup> On 26 November and 7 December 2017, Nepal achieved another milestone by successfully organising its first-ever federal and provincial elections.<sup>5</sup> These elections are

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1 Consultative meeting organised by International Alert in Kathmandu, 13 March 2018

2 On 18 February 2018, the parties agreed to take the unification process forward officially and have reached a five-point agreement. They have also formed a Party Unification Coordination Committee.

3 The elections had to be carried out in phases due to political protests in southern Tarai. The indiscriminate and excessive use of violence immediately after the promulgation of the Constitution was criticised by the National Human Rights Commission and other human rights groups. There was a significant number of violent incidents in the run up to the elections and in the post-election period, violent incidents are gradually increasing. Although there are suspected actors, including former Maoist groups, no groups have taken responsibility. In the short term, these incidents are affecting everyday public security.

4 In November 2005, a 12-point pact between the Seven Party Alliance and the Maoists became the turning point for the peace process.

5 Due to ongoing contention in Tarai, the elections had to be held in two different phases.

momentous, as for the first time in its history, Nepal is chartering a new path of a federal and provincial republic, thereby opening up new prospects for institutionalising federal democracy and for making necessary structural changes.

This paper presents the election results, and examines how political parties have reacted to them and the implications of this. It also looks at the state of current debates on how to prioritise Nepal's federal democracy and the factors likely to shape Nepal's short- to medium-term priorities. A latter section examines the challenges of transitioning to the new government, while the last section presents recommendations for stakeholders.

# Securing democracy and peace

Prior to the local-level elections of May 2017, the principle disagreement for or against elections revolved around four prominent issues. First, instead of resulting from political consensus, the 2015 Constitution was promulgated through majoritarian politics that thwarted previous understandings and agreements, and excluded significant Madhesi and Tharu constituencies. The issue was around ownership, with protesting parties claiming that the Constitution does not represent their core concerns related to representation and citizenship. Second, the proposed federal demarcation undermined the principles of 'capacity' and 'identity' to the extent that the existing model lacked any clear principles. This decision was questioned with a demand that federal demarcation had to consider geography and 'settlement continuity'. Third, unlike in the Interim Constitution, the ratio of the mixed electoral arrangement was reversed – 60% were elected under the first-past-the-post (FPTP) principle and 40% under proportional representation (PR). This reversal reinforced the perception among marginalised groups that the ruling class resists inclusive change, as it was PR that allowed them to secure more representation in parliament. Fourth, in the proposed electoral provision, including nomination in the upper house, representation of marginalised communities was likely to decrease. All these provisions and prevailing practices suggested that the ruling parties would not explicitly oppose the idea of inclusion and federal restructuring, but could find a way to dilute existing demands.

The government, however, remained firm and announced the local elections. Consequently, the Madhesi Alliance went out on the streets and demanded that the Constitution be amended, particularly on issues of federal demarcation among others.<sup>6</sup> While the RJPN boycotted the first two phases of the local elections and participated only in the third, the FSFN participated in all phases, but was – by and large – rejected in all constituencies other than in Province No. 2. Both parties made substantial gains in that province.

At the local level, the CPN-UML, NC and UCPN-MC emerged as the first, second and third most successful parties by winning 294, 266 and 107 seats, respectively, among a total of 753 village councils and municipalities. The two Madhes-based regional political parties, the FSFN and RJPN, secured 27 and 24 seats, respectively. The results of the local elections clearly put the CPN-UML in the forefront. With the UCPN-MC, the CPN-UML gained a comfortable majority as it secured 53% of the total seats. The local election plainly signalled

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6 Consultative meeting organised by International Alert in Kathmandu, 13 March 2018



that there would not be any surprises when it came to the newly formed parties such as the Baburam Bhattarai-led Naya Shakti Party and the Rabindra Mishra-led Sajha Party, despite the latter in particular receiving very favourable reporting in the media, including social media.<sup>7</sup>

In the past decades, local bodies have mainly been in the hands of bureaucrats, which has resulted in various types of unaccountability and pervasive corruption. Violations in the 2017 elections conduct and massive spending to acquire elected offices at the local level could translate into misuses of power and poor public service delivery. In many ways, such practices will shape elected offices and affect democratic peace in the coming months and years.<sup>8</sup> During elections, campaigns were telling in their use of money and resources. In the past, candidates relied on door-to-door visits, small mass assemblies, and loudspeakers broadcasting slogans and campaign songs, which did not cost much money or resources. The campaign strategies in the recent local elections, however, were extravagant and similar to those of national elections.<sup>9</sup> Along with traditional forms of campaigns, candidates from major parties made active use of the media to broadcast and publish promotional infomercials and advertisements. Promotional materials were also disseminated in local languages. Like in the federal and provincial elections, active use was made of posters, pamphlets and a series of sponsored lunches and dinners, all of which incurred massive spending.<sup>10</sup>

In the campaign silence period, candidates' campaigning expenditure exceeded the upper ceiling mandated by the Election Commission of Nepal (ECN). Widespread claims were made by multiple stakeholders that distribution of in-kind benefits and cash to maintain influence over voters took place during this period.<sup>11</sup> The media reported that most of the candidates violated the ECN mandate and exceeded their campaign spending limits by organising excessive activities such as feasts for cadres and voters.<sup>12</sup> In constituencies where the contest was very close, reports of excessive spending were more common.<sup>13</sup>

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7 On 25 July 2017, Sajha Party and Bibeksheel Party were unified and it was named Bihbeksheel Sajha Party.

8 There is still no structure in place for civil servants – who are deployed to oversee polling across the nation – to vote. The issue of disenfranchisement is even more serious for Nepal is living abroad.

9 K. Khanal, Matdanka kehi anubhuti [Some reflections on voting], Kantipur, 14 May 2017, p.6

10 K. Khanal, 2017, Op. cit.; also see Democracy Resource Centre Nepal (DRCN), Observation of Nepal's local elections, Final report, Lalitpur: DRCN, 2017, [http://democracyresource.org/wp-content/uploads/2017/11/DRCN\\_Local-Election-Final-Observation-Report\\_Eng.pdf](http://democracyresource.org/wp-content/uploads/2017/11/DRCN_Local-Election-Final-Observation-Report_Eng.pdf)

11 Conversations with observers stationed in Sindhuli, Nuwakot, Dang, Rukum and Dhangadi.

12 Sthaniya Chunavma Darlagdo Kharcha [Frightening Expenses on Local Elections], Sajha Post, 18 November 2017, <http://www.sajhapost.com/2017/11/18/92981.html>; B. Sijapati, Mahango Loktantra [Expensive Democracy], Kantipur, 27 November 2017, p.7

13 DRCN, 2017, Op. cit., p.20

In comparison to local elections that were marred by violent incidents, the federal and provincial elections were relatively peaceful.<sup>14</sup> Beyond excessive spending that can result in corruption and unaccountability once the candidate is in office, it is public knowledge that there is a significant proportion of elected candidates with criminal backgrounds.<sup>15</sup>

So far the federal government has done very little to overcome the lack of trust in public institutions or to act according to constitutional provisions. The Constitution states that a NRFC has to be established to deal with issues related to intergovernmental financial transfers, internal loans and the sharing of natural resources. Such a body could form the basis for clearly defining the notion of coexistence, cooperation and coordination between all levels of government. The government is yet to tackle this, however, without such a body, it would not be in a position to enable and institutionalise federalisation, and would lack clear principles for resolving conflicting claims between the three tiers of government.<sup>16</sup> An example of this is the mayor of Dhulikhel recently filing a petition against the federal government at the Supreme Court. He alleges that the federal government has undermined the autonomy of the local government by not facilitating the process of establishing a NRFC, thereby thwarting the local government's right to formulate legislation and subverting the posting of public servants.<sup>17</sup>

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14 For pre-election incidents and incidents during the elections, see: DRCN, Incidents after parliamentary and provincial elections, Analysis update 17, Lalitpur: DRCN, 2017, <http://democracyresource.org/wp-content/uploads/2018/01/Analysis-Update-17.pdf>

15 M. Gautam, Elections 2017: Candidates' lists infested with criminals, goons, The Kathmandu Post, 3 November

16 B. Poudel and K.P. Sapkota, Sanghiyatama sthaniya taha: Samvaidhanik vyavastha ra karyanvayanko awastha [The local level in federalism: Constitutional provisions and implementations], Kathmandu: Independent Citizens, 2018

17 Writ petition number 6625, 15February 2018, Supreme Court

# Towards a federal republic

There are paramount challenges to institutionalising federalism against the background of Nepal's long centralised history. The country's federal cabinet was finalised in March 2018 and the provincial legislative will take at least a year to formulate a basis for necessary acts of law. For example, according to the Constitution, provincial bodies need at least 22 new acts, which are yet to be formed.

The 2015 Constitution has a provision for the formation of a unicameral legislature at the provincial level and a bicameral legislature at the federal level, both under a mixed electoral system. In accordance with Article 286 of the Constitution,<sup>18</sup> the federal government formed the Election Constituency Delimitation Commission (ECDC) on 20 July 2017, which was mandated to prepare a report within 21 days.<sup>19</sup> The deadline for submitting this report was extended and the ECDC submitted it on 30 August (which is still a very short amount of time to prepare such an important document). Based on this report, the electoral constituencies for federal and provincial elections were delineated, and the elections were announced.<sup>20</sup>

The federal legislative body comprises a House of Representatives (HoR) and a National Assembly (NA). In accordance with Article 84 of the Constitution,<sup>21</sup> the HoR has 275 members and the NA has 59 members.<sup>22</sup> The HoR is formed with 165 elected members under the FPTP electoral principle and an additional 110 members elected under PR. Similarly, the provincial assemblies represent 330 elected members under FPTP and an additional 220 members under PR. Together with NA, this totals to 884 members.

The results of the local elections provided an opportunity for political parties to rethink their alliances in and around political stability and economic growth. The major surprise came in October 2017 when the CPN-UML and UCPN-MC announced they were coming together. In

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18 Government of Nepal, *The Constitution of Nepal 2015*, Kathmandu: Nepal Law Commission, 2015

19 Constituency Delimitation Commission formed, *The Himalayan Times*, 20 July 2017, <https://thehimalayantimes.com/kathmandu/constituency-delimitation-commission-formed/>

20 S. Giri, CDC submits its report with 165 electoral constituencies, *The Kathmandu Post*, 31 August 2017, <http://kathmandupost.ekantipur.com/news/2017-08-31/cdc-submits-its-report-with-165-electoral-constituencies.html>

21 Government of Nepal, 2015, Op. cit.

22 In the NA, also known as the upper house of parliament, out of 59 members, an electoral college elects 56 members from seven provinces – eight members from each province. The electoral college comprises provincial assembly members, chiefs and deputy chiefs of village councils and municipalities. Out of the eight members elected from each province, at least three must be women, at least one must be from the Dalit community, and at least one must represent people living with disabilities or other minority populations. The president nominates the remaining three members on the recommendation of the government, of which at least one member must be a woman.

a historic proclamation, their alliance was promised to ignite a process of party unification after the elections.<sup>23</sup> They also claimed that in the long run they would bring smaller left parties in, paving the way for the formation of one communist party. Their main challenge is convincing far-left fractions such as Biplov and Mohan Baidhya to align with them.<sup>24</sup> In response to the left alliance, the NC also tried to form a democratic alliance with the two main Madhes-based regional parties – the FSFN and RJPN.<sup>25</sup> This did not materialise, as the initiative by the NC was more reactive and less proactive. However, realising the importance of forming an electoral alliance, the FSFN and RJPN came together by deciding to nominate their electoral candidacy in the provincial and federal elections on a 50:50 ratio.<sup>26</sup>

In the federal parliament, the CPN-UML emerged as the single largest party by securing 121 of the total 275 seats. The NC secured 63 seats, the UCPN-MC 53 seats, the RJPN 17 seats and the FSFN 16 seats. Together, the left alliance of the CPN-UML and UCPN-MC has 63% of the seats, slightly below two-thirds of the total.<sup>27</sup> In the provincial legislative body of 550 seats under the FPTP and PR principle, the CPN-UML secured 242 seats, and the NC, UCPN-MC, FSFN and RJPN won 113 seats, 109 seats, 37 seats and 28 seats, respectively. Whereas the left alliance of the CPN-UML and UCPN-MC secured 64% of the seats, the smaller parties secured less than 3% of the seats.<sup>28</sup>

The provincial bodies are in disarray as necessary acts and guidelines are yet to be formulated, and they lack the resources to give their legislative proper direction. Conflicts over jurisdictions regarding revenue and taxation, recruitment of public servants, and control of police to ensure law and order are gradually manifesting.<sup>29</sup> Currently, serious questions are being raised about the roles and responsibilities of the provincial government and the openness of the federal government to clearly facilitate these issues.

23 CPN-UML, Maoist Centre, Naya Shakti announce electoral alliance, agree to unify, *The Kathmandu Post*, 3 October 2017, <http://kathmandupost.ekantipur.com/news/2017-10-03/cpn-uml-maoist-centre-naya-shakti-announcing-electoral-alliance.html>

24 P. Adhikari, Baidya rules out unification with CPN (Maoist Centre), *The Kathmandu Post*, 12 September 2017, <http://kathmandupost.ekantipur.com/news/2017-09-12/baidya-rules-out-unification-with-cpn-maoist-centre.html>

25 Madhes parties, NC to join forces against left block, *The Kathmandu Post*, 17 October 2017, <http://kathmandupost.ekantipur.com/news/2017-10-17/madhes-parties-nc-to-join-forces-against-left-bloc.html>

26 FSF-N, RJP-N agree to forge electoral alliance, *The Himalayan Times*, 6 October 2017, <https://thehimalayantimes.com/nepal/fsf-n-rjp-n-agree-forge-electoral-alliance/>

27 Out of 165 seats (under the FPTP principle only), the CPN-UML, UCPN-MC and NC emerged as the three largest parties securing 80, 23 and 36 seats, respectively. The RJPN, FSFN and other smaller parties secured 11, 10 and 5 seats, respectively.

28 Under the FPTP, the CPN-UML emerged as the single largest party by securing 167 of the total 330 seats. The NC secured 74 seats, the UCPN-MC 41 seats, the FSFN 24 seats and the RJPN 16 seats.

29 See 11- point commitment issued by Lal Babu Raut, the Chief Minister of Province No. 2, on 25 February 2018.

# Four emerging challenges

With the left front's comfortable majority, the expectations for democratic stability and economic progress are high. However, numerous questions emerge, such as: Will these expectations be achieved by institutionalising democratic aspirations in the years to come? What old practices remain and what new challenges are materialising? Against the backdrop of uncertainties arising from what course federalism may take, some possible challenges are discussed below. These will also be influenced by the life trajectory of the left front and how the unification process between the CPN-UML and UCPN-MC will unfold. Dealing effectively with these initiatives and threats will invariably require enlisting the support of provincial and local public officials, as well as of external partners. How these types of cooperation will play out and under what terms are yet to be defined.

## Constitutional amendments

The Madhes-based political parties did fairly well in the elections. Their main promise has been to bring about changes in provincial boundaries, pushing the agenda of constitutional amendments around federal demarcation. In a bid to bring the FSFN on board, the CPN-UML has displayed its flexibility with regards to amending the Constitution. As a precondition for joining the government, the FSFN has requested for constitutional amendment as its key demand, along with a package deal in power-sharing.<sup>30</sup> If the demand for constitutional amendment is addressed in a timely manner, the issue of ownership will be changed forever and the federalism process will shift to other equally important issues such as the sharing of resources between provinces and between provinces and the centre. Should constitutional amendments take time, the issue will reappear as a bargaining chip, constantly creating conflict between political parties.

## Conflict over jurisdiction and resources

The Constitution clearly states that a NRFC needs to be established to deal with issues related to intergovernmental financial transfers, internal loans and the sharing of natural resources. The federal government has displayed no urgency to form this body. Without such a body, however, the government will conduct 'business as usual', consolidating the

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30 UML agrees to amend constitution, *The Himalayan Times*, 20 February 2018, <https://thehimalayantimes.com/nepal/cpn-uml-agrees-amend-constitution/>

centre and undermining provincial and local governments, thus paving the way for conflict over jurisdiction between the three tiers of government. This will subsequently weaken the federal government's capacity to act or resolve conflicting claims between the centre and local governments. It will invite the court to question its decisions and legitimacy. The conflict between the legislative and judiciary is not new to Nepal, and any delay in forming the NRFC and other necessary acts of law would only aggravate it further. The writ petition by the mayor of Dhulikhel, as described earlier, is telling of this.

## Implementing federalism

Provincial dynamics are crucial in changing the forms of governing arrangements. With the old ways dying and anything new not yet fully formed, what is clear is that the modes of collective decision-making and capabilities of the local and federal governments will not be the same in the future. There are many questions about whether the federal government will focus more on its centralised structural issues and conventional forms of control, or whether it will open up to new ways of working with provincial and local governments. New ways of working with provincial assemblies and local councils are needed. Beyond drafting new acts, which are nevertheless urgent, the formation of a mutual trust between and among governmental bodies and elected representatives is crucial.

For example, one of the most urgent challenges is staffing and recruitment of public servants. In the past few years, bureaucratic bodies have been underprepared for the transition from the centralised state to a federal government. This is now being illustrated by staffing, incoordination and legislative confusion – issues causing daily difficulties at local councils and provincial assemblies. In one public event, the chief minister of Province No. 3, Dor Mani Poudel, stated that due to a lack of required public servants, local councils have been unable to function properly.

**“As the centre is being slow in responding to staff for local levels, many important works are pending. Despite repeated attempts to remind the centre, we have not been successful. The centre has sent only 20% of the required staff. How can a government function when we are short 80% of staff? How can civil servants work?”<sup>31</sup>**

Incoordination is mainly coming from the old government set-up, the place and role of which is either unwarranted or unclear in the federal system.<sup>32</sup> The District Coordination

31 A. Shrestha, Karmachari naayepachi mukhyamantri akroshit [The absence of civil servants has angered the chief minister], *Nagarik Daily*, 18 February 2018, <http://www.nagariknews.com/news/38275/>

32 Conversations with observers stationed in Janakpur and Dhangadi; also see S.R. Neupane and C.J. Garde, District discourse: DDC's in changed context, *The Himalayan Times*, 25 January 2018, <https://thehimalyantimes.com/opinion/districts-discourse-dccs-role-changed-context/>

Committee (DCC) is a classic illustrative case of incoordination. The ministries at the centre are responding slowly to federal set-up, including the Ministry of Federal Affairs and Local Development, which needs to take the lead in facilitating the federal transition efficiently. The lack of clear direction has added to confusion on the ground, where the bodies like DCC are inclined to conduct 'business as usual'. Observers working on the ground report that the DCC is not cooperating and not facilitating newly elected representatives and councils.<sup>33</sup> This is paradoxical as its main function is to clear away confusion by facilitating and making the transition to the new system as smooth as possible.

In addition, relevance and significance of history, identity, language and culture in forming and institutionalising federalism has become contentious at various levels. For example, there is conflict over the naming of the provinces or the capital of the provinces, which has led to protests in some provinces. If this is not resolved in a timely and appropriate manner, this could negatively impact the institutionalisation of federalism.

## **Inclusion and claims over multiple narratives**

The new Constitution ensures mandatory representation of women and other marginalised communities at all three tiers of government. Despite this, this representation is not satisfactory. Only because of mandatory legal provisions is the minimum 33% representation of women in the federal legislators ensured, with the majority of those appointed from proportional representation. Dalits, for example, are underrepresented in the HoR. Out of 13.8% of the total population, Dalits have 20 elected representatives, which is only 7% of the seats. With 9.5% of their HoR representatives being Dalits, the NC has the largest representation of this group. The CPN-UML has a 7.4% Dalit representation, while the UCPN-MC has the lowest representation, with 5.7%. Both Madhes-based parties have 6% each.<sup>34</sup> At the village/municipality level, the 175 seats allocated for Dalits have been left vacant as no Dalits reside in those electorates. The government has to urgently fill these positions taking from the pool of other minority groups in those electoral constituencies. This highlights that the provision of mandatory representation for marginalised communities has contributed unsatisfactorily in the case of the deprived and vulnerable.

Although the inclusion of women in politics and the economy is a little more widely accepted than the socio-political inclusion of Dalits (caste), Janajatis (ethnicity), Muslims (religious

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33 Conversations with observers stationed in Janakpur and Dhangadi

34 B. Paswan, Dalits and women the most under-represented in Parliament, *The Record*, 3 March 2018, <https://www.recordnepal.com/data/dalits-and-women-the-most-under-represented-in-parliament/>

minority) or Karnali (regional disparity), women from the so-called upper caste/class have been the main beneficiaries of inclusion provision, at the cost of addressing issues pertaining to poor and marginalised women, such as gender-based violence among others. Such failures have a compounded impact by obstructing justice and encouraging institutions to hinder much needed social security and public services. Hence the call to revisit inclusion beyond 'face value' for better representation and responsive public institutions is as urgent as it was prior to the elections.

On the issue of transitional justice, for example, 'what is' the situation and 'what can be done' is less coherent. Victim-centric narratives and victims' rights and needs are undermined at the cost of promoting and protecting political interest. This has contributed to the formation of two commissions – the Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappearance Persons (CIEDP) – that have become toothless since their inception. It has also contributed to promoting the idea that conflict can be resolved by punishing the perpetrators based on partisan interest. In turn, proper investigation and documentation, reconciliation and reparation, and overall social empowerment of victims have been undermined, excluding victims from the dividend of peace and constitution.

Coherent narratives of 'what is' and 'what can be' are important for making much needed changes at the policy level, and for making the process of policy reform meaningful for marginalised and excluded groups. The debates on narratives have to contribute to an overall rights-based and needs-based approach of 'taking' rather than 'having something given' by actors who are in power. Getting the narrative right in order to contribute to meaningful inclusion and representation must be coupled with identifying specific roles for individuals and institutions.



# Moving forward

The immediate policy recommendation is sensible cooperation and collaboration in consolidating democracy and peace, and institutionalising federalism. This has to be done by defining and institutionalising the notion of coexistence, cooperation and coordination as stated in the Constitution. Recommendations in the context of this paper are:

1. The Constitution clearly states that a NRFC has to be formed to deal with issues related to intergovernmental financial transfers, internal loans and the sharing of natural resources. The federal government needs to urgently form this body to clearly define the notion of coexistence, cooperation and coordination, and to institutionalise the three tiers of government and be able to resolve conflicting claims between them.
2. The state of law and order is weak when it comes to public security and prevention of violent actions. Poor public security often reduces trust and confidence in public institutions and political leadership, ultimately undermining basic service delivery and development efforts. In particular, local governments and security forces need to display people-centric leadership, responsiveness and strength as well as respect for fundamental rights while ensuring everyday law and order for residents.
3. Despite the larger popular mandate for inclusive change, the provisions of social inclusion have been tampered and manipulated by political interest. This undermines its constitutional spirit and societal aspiration, impacting Nepal's promise to create an inclusive state and meaningful representation. Therefore, the government needs to encourage and facilitate public debates on social inclusion that are geared towards taking critical stock of existing practices and resolving exclusion and inequalities.
4. Despite a dominant rhetoric that the peace process has come to an end in Nepal, there is a continuing failure to take any steps to end impunity. Due to politics of convenience, transitional justice has been undermined and two commissions – the TRC and the CIEDP – lack public trust. Currently, serious questions are being raised about the intent of political parties and the government, which must be overcome by strengthening the transitional justice process to address the rights and needs of victims of conflict, keeping them at the centre, and making justice deliverable and effective.
5. There is a natural tendency for donors to conduct 'business as usual' when situations appear to be normal or when the local context is frustratingly challenging. Major regional and international donors are all preparing medium-term assistance strategies with large sums of money at stake. A major portion

of these sums has to be directed into institutionalising federalism and deepening local democracy, rather than on the existing practice of spending a significant proportion at the centre, which has historically been one of the sources of conflict.

6. Development partners and civil society stakeholders should make the 2015 Constitution a basis to openly think about the complex relationships between social diversity, equity and inequalities in the pursuit of a stable democratic order. Building on that, they should invest in programme activities and research that would, in the long term, enable members from marginalised and vulnerable communities to actively contribute to critical civic engagements in a peaceful manner.

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