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INTERRELATIONSHIP BETWEEN **PROVINCE AND LOCAL LEVELS** IN NEPAL'S **FEDERAL STRUCTURE**

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Democracy Resource Center Nepal

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Published Year 2023

Publisher

Democracy Resource Center Nepal (DRCN)

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www.democracyresource.org

DRCN Periodic Publication - 23

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Printed in Kathmandu, Nepal

This study is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents and analysis of this study are the responsibility of Democracy Resource Center Nepal (DRCN) and do not necessarily reflect the views of USAID or the United States Government.

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ACKNOWLEDGMENTS

Democracy Resource Center Nepal (DRCN) expresses gratitude to the present and former provincial assembly members, employees of the provincial ministries and agencies under them, former and current elected representatives and employees of the local level, civil society members and journalists who were interviewed for this study in Sudurpaschim, Karnali and Bagmati Provinces.

We would also like to thank all the participants who raised questions, comments and ideas in the stakeholder sessions held in Sudurpaschim, Karnali, Lumbini, Gandaki and Bagmati Provinces. DRCN is grateful to Kishor Pradhan for the layout and design of this report.

Ankalal Chalaune, Chiran Manandhar and Shekhar Parajulee wrote this report based on the field information and analysis of researchers Ankalal Chalaune, Anusha Basnet, Chiran Manandhar, Ishwari Bhattarai, Kunsang, Nirashi Thami, and Shekhar Parajulee.

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1. INTRODUCTION

The Constitution of Nepal has established a three-tier federal structure with the federal, provincial, and local levels vested with legislative and executive powers. The schedules in the Constitution outline a list of exclusive and concurrent rights for the three levels of government. However, due to the reluctance of the federal government to transfer powers to the provinces and local levels, ambiguity on shared jurisdiction, indifference toward enacting necessary laws and other reasons have affected cooperation and coordination between them. However, the issue of interrelationships is not related only with the federal level; interrelationships between the provincial and local levels also need to be effective and efficient.

This study tries to analyze the interrelationship between the provincial and local levels by focusing on various aspects of administration, fiscal affairs, and the drafting and implementation of plans. Information required for this study, which is mainly qualitative in approach, was collected by interviewing members of current and previous provincial assemblies, employees from provincial ministries and offices under them, current and previously elected representatives and employees from local governments, professors, and journalists in the Sudurpaschim, Karnali and Bagmati provinces. At the request of some of the interviewees, their names have not been disclosed.

The analysis also utilizes previously published material available in the form of books, reports, articles and news, along with material found on websites of provincial and local government offices. Interaction programs with stakeholders on the interrelation between provincial and local levels were also organized in the Sudurpaschim, Karnali, Lumbini, Gandaki and Bagmati provinces. Comments and suggestions gathered from those programs have also been incorporated into this report.

The next section of this report is on the constitutional and legal provisions regarding the interrelation between provincial and local governments. The third section deals with institutions that manage administrative relations at the provincial and local levels, such as establishing offices, employee management and their skills development and training, etc. The fourth section examines the practices and challenges in grant transfer and revenue sharing between provincial and local levels. The mutual problems seen in project implementation by provincial and local governments are examined in the fifth section. The sixth section discusses institutional structures established to manage the province-local level interrelationship. The final section contains the conclusion.

2. CONSTITUTIONAL AND LEGAL PROVISIONS

Article 232 of the Constitution mentions that, 'The relations between the Federal, Provinces and Local Levels shall be based on the principles of cooperation, co-existence and coordination.' Schedule 6 of the Constitution lists a total of 21 exclusive rights of the province. Similarly, Schedule 8 of the Constitution lists a total of 22 exclusive rights of local levels. The 15 concurrent rights of the federal, provincial and local levels are found in Schedule 9. The implementation of these rights is guided by the constitution and laws created by legislative assemblies of respective governments.

The *Federal, Province and Local Level (Coordination and Interrelation) Act, 2020* states that any law made by a province related to its shared and exclusive jurisdictions should not encroach on the exclusive jurisdictions of the local levels; and that it should ensure that it avoids duplication; and that it takes into consideration the cost, sustainability, and effectiveness of service delivery, along with a role for local governments when implementing its programs at the local level.

Similarly, the local levels are required to make laws or policies regarding their exclusive and shared rights in such a way that the rights of the province are not violated, and which align with provincial policies and priorities, and which facilitate in implementation of provincial plans. According to this Act, the provinces can enact legislations on matters related to concurrent rights even in absence of federal laws. Similarly, local governments can create laws regarding its concurrent rights even when relevant federal or provincial laws are absent. If provincial laws contradict federal laws, or if local laws contradict federal or provincial laws, the laws will be void to the extent of the contradiction(s). According to Article 137 of the Constitution, only the Constitutional Bench of the Supreme Court of Nepal can rule on the nature and extent of such contradictions. The Constitutional Bench was established on December 8, 2015, and has since been functioning. The Constitution of Nepal 2015 created the provision for a Constitutional Bench for the first time in the judicial history of Nepal. The Constitutional Bench has the august responsibility of examining laws created by federal, provincial and local levels. Apart from this, the Constitutional Bench also decides on the disputes arising regarding jurisdiction between the federal and the provincial levels, or between two provinces, or between a province and its local levels, or between two or more local levels. Similarly, if disputes arise regarding the interpretation of the Constitution, it is the Bench's function to provide the final verdict. Therefore, the functioning of the Constitutional Bench, and its verdicts, appear to have a direct impact on the federalism of Nepal.

The *Federal, Provincial and Local Level (Coordination and Interrelation) Act 2020* contains a provision for forming a Provincial Coordination Council in each province to coordinate between the province and its local levels, or between two or more local levels within more than one district of a province, and to manage their interrelationship. Provinces are also required to create laws for the local levels. For example, the province is required to create laws related to the remuneration and

other facilities of local level representatives, functioning of municipal and district assemblies, land and property registration, entertainment tax, determining tax rates for riverine materials, etc. Members of district coordination committees have complained that they have not been able to carry out their roles as defined by the Constitution, despite having resources and structures in place, because provinces have not created the necessary laws. The *Local Government Operation Act, 2017*, also mentions that the local levels are required to adapt their plans to the policies, aims, timelines and processes of the federal and provincial governments. Thus, the provincial and local levels stand on this shared legal framework.

Provinces and local levels have the authority to impose taxes and generate revenue under their fiscal jurisdiction. The Constitution mandates the National Natural Resources and Fiscal Commission (NNRFC) to recommend fiscal transfers to the provincial and local levels. Provinces also transfer fiscal equalization grants to their local levels based on expenditure needs and revenue capacity as per provincial laws, and in accordance with recommendations made by the NNRFC. Fiscal transfers from the provincial to the local levels, and revenue sharing, are performed according to the Constitution of Nepal, the *Intergovernmental Fiscal Arrangement Act, 2017*, provincial fiscal transfer acts, provincial complementary grant procedures, provincial special grant procedures, provincial conditional grant procedures, and provincial financial acts (See Intergovernmental Fiscal Transfer section for more details).

3. ADMINISTRATIVE INTERRELATIONSHIP

Some duplication and ambiguity remained in the list of exclusive jurisdictions in the schedules of the Constitution which lead to confusion

among the three tiers of governments regarding concurrent jurisdictions. Therefore, the Government of Nepal prepared an unbundling report based on the schedules of the Constitution, elaborating each matter to be executed by all three levels of governments. The report has made explicit a total of 565 functions of the provincial governments, and 360 functions of the local levels. Provinces and local levels have established various administrative structures to fulfill their responsibilities and maintain interrelationships through their powers. Initially, the federal government established various structures at the provincial and local levels to manage the federal transition process. These structures were provided with the necessary human resources through civil service employees integration.

The provincial structure was built to implement development projects, provide service delivery at the provincial level, and to coordinate between the federal and local levels. For this, various positions were created in the provincial ministries and agencies and staffed with employees possessing multiple skills.¹ The provinces vary in terms of human and physical development indices as well as demographic and geographical conditions. The erstwhile structures established to operate the highly centralized state and administration structures were used as transitional structures in the federal system, but this process had its limitations. Therefore, all the provinces began their functioning focusing on their provincial needs and characteristics. As per the Article 106 (b) and (d) of the Local Government Operation Act, 2017, provincial governments were required to build their structures by closing down parallel offices that come under the jurisdiction of local governments while empowering the sectoral and thematic offices within the local levels. Additionally, it was expected that projects whose implementation is more effective when carried out by the local levels should be implemented by the local levels, with necessary budgets

¹ Democracy Resource Center Nepal. 2019. *Functioning of Local and Provincial Governments in Nepal*. Lalitpur: Democracy Resource Center Nepal.

being provided to the concerned local level. It was also expected that the provincial government would be more active in the coordinating role after the transfer of basic services delivery systems in sectors such as agriculture, education, health, and livestock management to the local levels in accordance with the spirit of federalism. Considering this fact, divisional offices were established to coordinate across two or three districts without establishing a provincial office in each district as had been the case in the erstwhile centralized structure.² However, provinces gradually expanded various structures at the district levels, and began establishing offices in sectors like agriculture, cottage and small industries, health, road, urban development etc. Regional directorate offices which had been abolished by the federal government after the transfer of various programs to the local levels have also been reestablished at the provincial levels, resulting in duplication of work and an increase in administrative expenses.

Provincial government officials argue that the provincial government had to establish offices at the district levels since the local levels did not coordinate and cooperate in the implementation of provincial plans and projects. They also acknowledged that the provincial government wanted their visibility as well. However, this has not only challenged the principle of good governance with efficient administration and effective functioning, but has also established a parallel and competitive structure, which undermines the capacity of the local levels. The annual reports of the Auditor General have also pointed out that the various structures established at the provincial level have increased the duplication of work and administrative expenses. The fifth annual report of the Auditor General regarding Karnali Province states:

Offices should be established according to service delivery needs. The Directorate of Education Development, Surkhet, under the

² Democracy Resource Center Nepal. 2019. Functioning of Local and Provincial Governments in Nepal. Lalitpur: Democracy Resource Center Nepal.

Education Ministry, and a total of nine Social Development Offices located in the districts, have been carrying out activities like constructing school buildings, distributing scholarships, trainings targeted at the youth, etc., which are also functions being carried out by the federal and local levels. This year, the Social Development Offices across 10 districts have spent NPR 158 million 230 thousand in recurring expenses. There is no justification for these offices as all activities related to school education are under the jurisdiction of the local level. Such offices where the scope of work is duplicated should be closed and expenses should be reduced (p. 81).³

Local governments did not like the establishment of offices such as Agriculture Knowledge Center, Veterinary Hospital and Livestock Expert Service Center, Social Development Office, etc., at the district levels by the provincial government. Representatives of local governments expressed that they have taken these offices as their competition since they provide similar services. They argued that provinces have encroached upon their jurisdiction and weakened the local levels by creating offices across local government jurisdictions even though the Constitution tasks the local government with the main responsibility for service delivery.⁴ If those provincial offices had been established after clearly identifying their functions and coordinating with local governments, they may have been helpful for the local governments as well. But the current parallel structures have created uncomfortable situations for local governments. The crux of the complicated relationship between provincial offices and local government is in the implementation of plans. Some representatives from local governments went so far as to

³ Office of the Auditor General. 2023. *Fifth Annual Report of the Auditor General, 2023: Karnali Province* (in Nepali) p. 81. Kathmandu: Office of the Auditor General.

⁴ Opinions expressed in interaction programs on interrelationship between local and provincial levels organized by DRCN in December 2023 in Sudurpaschim, Karnali, Lumbini, Gandaki, and Bagmati provinces.

claim that local governments should be given the authority to handle provincial project budgets.⁵

The Ministry of Federal Affairs and General Administration is the designated body for establishing coordination between the local levels and the federal government. However, in the provinces, there is no clearly defined unit that coordinates with the local levels. To some extent, the Chief Minister's Office can be considered as such a body, but there is no designated unit or an officer for this task at the office. The Governance Improvement and Coordination Division, and Administration and Human Resource Development Branch in the Chief Minister's Office exist, but these mechanisms need to be more active for coordinating between provincial and local levels.

3.1 EMPLOYEE MANAGEMENT

According to Article 227 of the Constitution, the management of employees and offices at local levels shall be in accordance with provincial laws. Similarly, Article 244 of the Constitution says that there will be a Provincial Public Service Commission in each province. All provinces have formulated their provincial public service commission acts, and have established provincial public service commissions. All the provinces have also made their provincial civil service acts. Provincial public service commissions are responsible for fulfilling vacancies in various service groups, sub-groups and levels across provincial government ministries, local levels, and institutions under provincial and local levels. Provincial public service commissions collect information about vacant positions at the provincial and local levels, make public calls

⁵ Democracy Resource Center Nepal. 2020. *The Interrelationship between Three Levels of Governments in Nepal's Federal Structure*. Lalitpur: Democracy Resource Center Nepal.

for vacancies according to the demand, develop curriculums, conduct examinations and recommend the appointment of suitable candidates by publishing the results.

Only in Bagmati and Gandaki province, the Local Service (Formation and Operation) Act, 2023 has been enacted. According to this Act, local governments are required to notify their provincial public service commission and Office of Chief Minister and Cabinet of Ministers about vacant positions within one month in case of Bagmati Province, and within 15 days in case of Gandaki Province. Both acts have the provision that the Chief Administration Officer (CAO) of the local levels will be under the provincial civil service. In current practice, this position is under the federal civil service. Since the federal government has a role in the promotion and transfer of the CAOs, they are reportedly more loyal to the federal government. Most of the respondents mentioned that this has created complications in coordinating between provincial and local levels. The same complications may continue under the new provision which keeps CAOs under the provincial civil service since their loyalties may remain with the provincial government.

As per the Local Service (Formation and Operation) Act, 2023 of Bagmati Province, the Chief Administrative Officer has to submit quarterly local level progress reports for plans and programs to the Office of the Chief Minister and the Council of Ministers. But, the act in Gandaki Province mentions that the CAOs are supposed to carry out the functions prescribed by the provincial government. A provision in the acts provides that provincial governments will conduct training to improve the skills and capacities of local level employees. According to the acts enacted by Bagmati and Gandaki provinces, local levels must consult the respective provincial public service commission, through the line ministry, before enacting laws regarding employee terms of service.⁶ Advice given by the respective Province Public Service Commission is required to be followed

⁶ Article 152 (2) of the Local Service (Formation and Operation) Act, 2023.

by the relevant local levels. In accordance with this provision, the commission in Bagmati Province also provided consultation on the draft of the Act Related to Service (Formation and Operation) of Bharatpur Metropolitan Municipality, Dhulikhel Municipality, and Hetauda Sub-Metropolitan City in the fiscal year 2022 - 23. Similarly, the illegitimate promotion of employees carried out by Kathmandu Metropolitan City, Lalitpur Metropolitan City, and Hetauda Sub-Metropolitan City were also canceled by the Bagmati Province Public Service Commission, citing irregularities.⁷ A total of 63 vacancy calls were made for the filling of posts from fourth to eighth levels in the FY 2022 - 23 for local service in Gandaki Province. Out of them, the results of 24 vacancy calls were published, and 1,109 candidates were recommended.⁸

According to the annual calendar of the Bagmati Province Public Service Commission, in the FY 2021 - 22, out of 119 local levels in Bagmati Province, only 69 had sent requests for filling up the vacant posts. The Commission's fourth annual report mentions that some local levels were reluctant to send requests to fulfill vacant positions. The Commission has mentioned that the 'tendency to hide vacancies' by the local level has created a problem. Similarly, requests for a total of 625 positions from 61 local levels, including Bharatpur Metropolitan City, Lalitpur Metropolitan City, and Hetauda Sub-Metropolitan City were received by the Bagmati Province Public Service Commission. Kathmandu Metropolitan City, which has the highest number of vacant posts, did not demand to fill even a single post. According to the Commission's report, a large number of posts have not been filled due to this trend.⁹ In the said act, the vacant posts have to be fulfilled according to the approved organizational structure of the local level only with the

⁷ Province Public Service Commission. 2023. *Fourth Annual Report: FY 2022/023* (In Nepali). Hetauda: Province Public Service Commission, Bagmati Province.

⁸ Province Public Service Commission. 2022. *Second Annual Report: FY 2021/022* (In Nepali). Pokhara: Province Public Service Commission, Gandaki Province.

⁹ Province Public Service Commission. 2023. *Fourth Annual Report: FY 2022/023* (In Nepali). Hetauda: Province Public Service Commission, Bagmati Province.

recommendation of the Province Public Service Commission. The Act also mandates that the provincial personnel records (civil) office shall maintain local government employee records.

Sudurpaschim and Karnali Province were yet to enact a separate law regarding local level employee services and benefits, resulting in difficulties in filling posts at the local levels, and in career development of the local level employees. Posts other than of CAOs are being filled based on the demands from the local levels as per the Employee Integration Act, 2018. But posts which needed to be filled through internal promotions have not been filled yet. After finding that local levels in Sudurpaschim Province have been carrying out activities such as recruitment and promotion contrary to prevailing laws, the Provincial Public Service Commission wrote to the local levels to desist. The Commission is also investigating complaints received on such matters. The Provincial Public Service Commission recruited personnel to 237 posts across 36 local levels in local civil service in the fiscal year 2021/022.¹⁰ Provincial Public Service Commission in Karnali recommended 989 (860 in fiscal year 2021/022, and 129 in fiscal year 2022/023) employees across the both provincial and local levels.¹¹

Bagmati and Sudurpaschim provinces have started collecting personal details of newly appointed provincial and local level employees through their respective provincial public service commissions. According to Ashok Kumar Maharjan, Karnali Province Public Service Commission spokesperson, Karnali province has drafted a Provincial Civil Service Employee Act, but it has not been implemented due to the lack of subsidiary laws.¹²

¹⁰ Province Public Service Commission. 2023. *Third Annual Report: FY 2022/023* (In Nepali). Dhangadi: Province Public Service Commission, Sudurpaschim Province.

¹¹ Province Public Service Commission. 2023. *Third Annual Report: FY 2022/023* (In Nepali). Birendranagar: Province Public Service Commission, Karnali Province.

¹² Conversation with Maharjan from the Province Public Service Commission in Karnali on December 14, 2023.

3.2 CAPACITY DEVELOPMENT AND TRAINING

Provincial Training Academy/Provincial Good Governance Centers have been established in the provinces with the objective of providing trainings and developing the capacity of elected, nominated, and appointed officials and employees at the provincial and local levels; facilitating the implementation of provincial government and local level programs; and for institutional reform of governmental and semi-governmental bodies under the province and local levels. The key objective of these bodies is to provide quality training, action-oriented research, issue-centric dialogue, and demand-based consulting services. The training institutes are responsible for facilitating human resource development at the provincial and local levels, building government capacity, and implementing legal and policy arrangements at the federal, provincial and local levels. It was found that the provincial training institutes have conducted some training and orientation programs. For example, the Karnali Province Training Academy had organized training on local level periodic planning and medium-term expenditure, and a two-day orientation on Local Economic Development (LED). Similarly, Bagmati Province Training Academy conducted a three-day training on the development of information technology systems at local levels. An official at the Provincial Good Governance Center said that about 100 Information Technology Officers benefited from the training.¹³ Similarly, entry-level employees who have been selected by the Provincial Public Service Commission were also trained by the provincial training institute.

On June 10 and 11, 2023 the Gandaki Province Training Academy conducted basic orientation for the newly elected municipal mayors, deputy mayors, and rural municipality chairpersons and vice chairpersons, along with a two-day orientation on gender-responsive

¹³ Conversation with the employee from Provincial Center for Good Governance on October 15, 2023.

budgeting for the deputy mayors and vice chairpersons and executive members in the fiscal years 2021/022 and 2022/023.

An orientation program was conducted in coordination with the Provincial Public Service Commission for newly appointed employees selected by the Gandaki Provincial Public Service Commission and recommended to the local levels. The Gandaki Provincial Training Academy provided financial and technical support to formulate regional periodic plans, revenue improvement action plans, capacity development plans, and gender equality and social inclusion strategies under the Provincial and Local Government Support Program. The employees of the institute said that this has helped elected representatives implement development and good governance programs.

The efforts made by the province to increase the capacity of elected representatives and employees are commendable. However, these practices have covered only a limited part of the demand. A large number of people's representatives and employees at the local level have not been able to get opportunities for capacity building, and this has affected their functioning. Local level officials interviewed during this study said that training opportunities provided by the provincial government should be increased, and that awards should be arranged to encourage local level employees.

4. FISCAL TRANSFERS BETWEEN PROVINCES AND LOCAL LEVELS

Fiscal transfers across all three levels of government happen through revenue sharing, grants transfer, foreign aid and internal loans. The federal government distributes four types of grants – equalization, conditional, complementary, and special – to the provincial and the local levels, while provinces also distribute similar transfers to their local

levels. Furthermore, the province collects vehicle taxes and shares it with the local levels. Local levels collect entertainment and advertisement taxes and share it with the province.

4.1 REVENUE COLLECTION AND SHARING

There is a constitutional provision that the revenue should be distributed equitably across all three levels. The jurisdiction of revenue collection of the three levels of government is listed in the schedules of the Constitution under exclusive and concurrent rights (See Table 1). The three levels of governments have been collecting revenues in their own way with regard to their exclusive rights. The concurrent rights between provinces and local levels include house and land registration fees, entertainment tax, advertisement tax, and vehicle taxes. Among these, rates for house and land registration fees and entertainment tax are determined by the province and are collected by the local levels. Similarly, the advertisement tax is determined by the local level and also collected by the local level itself. Out of the revenue collected from these sources, the respective municipality keeps 60% of the amount for the local consolidated fund while the remaining 40% is deposited into the province consolidated fund. Entertainment and advertisement taxes have not been collected in Karnali province as of December, 2023. Gyanu Lakshmi Chaulagain, the Information Officer at the Ministry of Economic Affairs and Planning of Karnali Province, said, "The lack of coordination between the provincial government and local levels, the tax has not been collected from the local levels."¹⁴

¹⁴ Conversation with Ministry of Economic Affairs and Planning Information Officer Chaulagain on October 13, 2023.

Table 1: Jurisdiction of Tax and Non-tax Revenue among Three Levels of Governments

Level	Exclusive Rights	Shared between Federal and Province (Schedule 7)	Shared between Three Levels (Schedule 9)
Federal (Schedule 5)	Customs duty, Excise duty, Value Added Tax, Corporate Income Tax, Individual Income Tax, Remuneration Passport fee, Visa Fee, Tourism Fee, Service Charge/fee, Gambling/lottery, Casino, Penalty and Fine		
Provincial (Schedule 6)	House and Land Registration Fee, Motor Vehicle Tax, Entertainment Tax, Advertisement tax, Agro-income Tax Service Charge/fee, Tourism Fee, Penalty and Fine	House and Land Registration Fee, Motor Vehicle Tax, Entertainment Tax, Advertisement Tax	Revenue from Natural Resource, Tourism Fee, Service Charge Fee, Penalty and Fine
Local (Schedule 8)	Wealth Tax, House Rent Tax, House Land registration fee, Motor Vehicle Tax, Land Tax (Land Revenue), Entertainment Tax, Advertisement Tax, Business Tax, Service Charge/fee, Tourism fee, Penalty and Fine		

Source: *The Constitution of Nepal and Inter Governmental Fiscal Arrangement Act 2017*

In Sudurpaschim Province too, no entertainment tax has been collected as of December, 2023, but some local levels have been collecting

advertisement taxes. According to the Province Finance Comptroller Office, only 3 (Dhangadhi Sub-Metropolitan City, Shuklaphanta Municipality and Badimalika Municipality) out of the 88 local levels in Sudurpaschim Province collected advertisement tax for the fiscal year 2020 /021 and deposited the amount into the Province Consolidated Fund. In the fiscal year 2021/022, NPR 871,000/- from these municipalities was deposited into the province consolidated fund.¹⁵ In the fiscal year 2019/020, Lamkichuha Municipality collected NPR 226,000 from advertisement tax and deposited it into the province consolidated fund. However, in the fiscal year 2020/021, the municipality could not deposit the said tax into the province consolidated fund. Similarly, Godavari Municipality also tried but failed to collect advertisement tax or entertainment tax. The account officer, Ramchandra Joshi, said that the municipality has released a tender notice to collect advertisement tax, but no one had submitted a proposal for it. Both Dhangadhi Sub-Metropolitan City and Godavari Municipality deposited revenue generated from the sale of riverine materials such as sand, stones, gravels and driftwood into their local consolidated funds and did not share it with the province.¹⁶

Among the 119 local levels in Bagmati Province, only Kathmandu Metropolitan City, Lalitpur Metropolitan City, and Madhyapur Thimi Municipality have been levying entertainment taxes. According to a report of the Province Comptroller of Accounts Office of Bagmati Province, these local levels collected NPR 7,239,778.35 as entertainment tax till March 2, 2022. Only 21 local levels in Bagmati Province collected

¹⁵ Office of the Auditor General. 2023. *Fifth Annual Report of Auditor General 2023: Sudurpaschim Province*. Kathmandu: Office of the Auditor General.

¹⁶ Shah, Arjun. 2021. *Local Levels Struggle to Collect Revenue* (in Nepali). Kantipur, September 19. Available at <https://ekantipur.com/pradesh-7/2021/09/19/163202591471631623.html>, accessed December 23, 2023.

advertisement taxes. As of March 2, 2022, these local levels collected NPR 49,103,779 as advertisement tax.¹⁷

Similarly, transport management offices under respective provinces are responsible for collecting vehicle taxes and fees, which are then deposited into the provincial divisible fund. According to the guidelines, 60% of the amount has to be deposited into the provincial consolidated fund and 40% into the local consolidated fund. However, the fourth annual report of the National Natural Resources and Finance Commission (NNRFC) for the year 2022 reveals a deviation from this norm. It indicates that the funds obtained from vehicle taxes by the provincial government are not distributed to the respective provincial and local governments within the province on a monthly basis. Instead, these funds are retained for distribution, even extending into the next fiscal year. This practice has been identified as impractical, particularly in the context of the Karnali province. Bindaman Bista, member of the Karnali Provincial Assembly and former Minister of Economic Affairs and Planning Ministry, said, "Revenue from vehicle tax is very low in our province. If the collected revenue is to be distributed among the 79 local levels within the Karnali province every month, it should be given not in the thousands of rupees, but in the hundreds. When I was a minister, even when we disbursed it every six months, the amount was still in the hundreds. It became unnecessarily cumbersome to transfer such small amounts, and therefore it was not transferred every month. There is a need for better collaboration with the local levels to increase revenue collection. The province is also not able to pay adequate attention to this issue. The revenue department at the Provincial Ministry of Economic Affairs and Planning is not active in terms of operations."¹⁸

¹⁷ Province Comptroller of Accounts Office. 2023. *Integrated Annual Financial Details of FY 2021/022 of Bagmati Provincial Government* (in Nepali). Hetauda: Province Comptroller of Accounts Office, Bagmati.

¹⁸ Opinions expressed in the interaction program on interrelationship between province and local levels organized by DRCN on December 18, 2023 in Birendranagar, Karnali Province.

The Finance Act 2023 of Sudurpaschim Province has a provision to empower the respective local levels to levy and collect motor vehicle taxes on horse carts, rickshaws, auto-rickshaws, electric rickshaws, and power tillers. According to the provision, the local level can keep 60% of the collected tax, while the remaining 40% must be regularly deposited into the provincial consolidated fund. Additionally, information regarding the collected tax, along with specific details, is required to be submitted to the Provincial Ministry of Economic Affairs and Planning on a monthly basis. However, most of the local levels in Sudurpaschim Province have not implemented it. Notably, the Terai region has a higher concentration of vehicles such as horse carts, rickshaws and auto-rickshaws in comparison to the hilly region. According to Ekindra Timilsina, a local journalist, this tax has not been implemented in Tikapur Municipality, which has relatively a higher concentration of these vehicles. Timilsina's attempt to lobby to grant permission for operating rickshaws only after registration was unsuccessful. He speculated that a lack of enthusiasm among local levels was because the small amount of tax generated had to be shared with the province.¹⁹

In Karnali Province too, the Finance Act, 2022 allows local levels to levy and collect vehicle tax on horse carts, rickshaws, auto-rickshaws, electric rickshaws under the motor vehicle tax. However, this Act does not elaborate on the requirement to share the revenue generated from these vehicles between the province and local levels. Birendranagar Municipality of Karnali Province has published an Auto-rickshaw and Electric Rickshaw Management Guideline, which requires owners of vehicles registered and operating in the municipality to pay the stipulated tax and regularly renew their tax registration. Additionally, there is a provision to obtain a route permit every four months and to pass a vehicle inspection test every six months. It also specifies fees and

¹⁹ Opinions expressed in the interaction program on interrelationship between province and local levels organized by DRCN on December 12, 2023 in Tikapur, Sudurpaschim Province.

penalties for exceeding the renewal deadline. An employee working in Birendranagar Municipality said that these fees are the sole income of the municipality.²⁰ In Bagmati Province, Kathmandu Metropolitan City has banned the use of auto-rickshaws, electric rickshaws and human-pulled carts. The Metropolitan City has enforced a complete ban as a part of its efforts to enhance the public transportation system.²¹

There appears to be a conflict between provincial and local levels due to the laws and standards made by the federal government regarding revenue sharing. A provision in the *Local Government Operation Act, 2017* states that the tax collected on riverine materials such as stones, gravel, sand, driftwood and soil products shall fall under concurrent rights, with the rate of taxes being determined by the provincial level, the revenue collected by the local level, and the revenue deposited into the provincial consolidated fund. However, the *Federal Government's Finance Act, 2018* abolished the erstwhile shared jurisdiction on tax collected on stones, gravel, sand, and soil products, and brought it under the exclusive right of the local levels. Again, contrary to the revised Act, the Federal Council of Ministers issued the Standards Related to Stone, Gravel, Sand Excavation, Sale and Management, 2020 that restored the shared jurisdiction of the provincial and local levels. This created ambiguity in the collection and distribution of revenue from stone, gravel, sand and soil products, which has negatively impacted the relationship between provincial and local levels.

According to a report of the Province Comptroller of Accounts Office of Karnali Province, out of 79 local levels in the province, only 14 local levels have collected taxes on riverine materials such as sand, stones,

²⁰ Conversation with the employee on December 26, 2024.

²¹ Ratopati. 2023. Kathmandu Metropolitan City is to Ban Auto-rickshaws, Electric Rickshaws and Human Pulled Carts (in Nepali). Available at <https://www.ratopati.com/story/400217/kathmandu-auto-riksa>, accessed December 23, 2023.

gravels and driftwood.²² In most of the local levels of Karnali province, it was found that the sale of riverine materials was not brought under the tax remit. An employee at Karnali Province Ministry of Economic Affairs and Planning highlighted several challenges in Karnali Province in comparison to other provinces, along with legal ambiguities and other issues. “Compared to rest of the provinces, the population in Karnali is very low, the number of industries is limited, the right to collect revenue from the forest areas is with the federal government, employees being passive in local resource mobilization, the lack of awareness about taxes among locals, the tax evaders not being brought to the scope of action, etc. In all cases, the collection of taxes is lower than projected” she said.²³ She claimed that even though the revenue raised from natural resources should be shared with the province as per the law, the local levels were not adhering to the law.

Similarly, elected local representatives in Sudurpaschim Province claimed that the excessively high revenue rates hindered the process of awarding contracts for riverine materials. Speaking at an interaction program organized by DRCN, Juna Chaudhary, Deputy Mayor of Lamkichuha Municipality, said, “No contract has been signed with the local levels in Kailali for the extraction and distribution of river-based materials. This is due to the increased tax rate. Earlier, tenders for river-based materials in our municipality used to be awarded at around NPR 15 million per annum. Now the province requires that tenders be set at NPR 60 million, claiming environmental impact assessment and other related issues. Who will submit tenders at such rates? If the province could coordinate with the local levels in such matters, both could benefit financially.”²⁴ After

²² Province Comptroller of Accounts Office. 2022. *Integrated Annual Financial Details of FY 2021/22 of Karnali Provincial Government* (in Nepali). Birendranagar: Province Comptroller of Accounts Office, Karnali Province.

²³ Conversation with Ministry of Economic Affairs and Planning Information Officer, Gyanu Lakshmi Chaulagain on October 13, 2023.

²⁴ Opinions expressed in the interaction program on interrelationship between province and local levels organized by DRCN on December 12, 2023 in Tikapur, Sudurpaschim Province.

the municipality failed to award a contract, the provincial government amended the river-based products management procedures at the request of the local government to provide concessions to the contractors. In the amendment, the erstwhile provision of depositing the 50% of the contract amount and the tax was amended to 20% and the tax. Despite these changes, the contract could not be awarded even after the local levels called for a tender multiple times because the taxation rate had not been revised. As the revenue from the river-based products is one of the main sources of income for local levels, the local governments have started collecting the revenue themselves.²⁵ According to the Office of the Auditor General's Fifth Annual Report 2023, Sudurpaschim Province received NPR 34,62,000/- from the sales of gravel, sand, and other riverine materials in the fiscal year 2021/022. The amount was NPR 31,00,500 in the previous fiscal year.²⁶

According to the Integrated Annual Financial Report of the Bagmati Province Comptroller of Accounts Office, out of 119, only 63 local levels in the province collected a total of NPR 673,329,133 in taxes.²⁷ This amount is several times more than the entertainment tax and advertisement tax collected by the local levels. Among the shared jurisdictions of provinces and local levels, the number of local levels that collect taxes from one or another heading is 74 in Bagmati Province. However, 11 local levels do not collect taxes from riverine materials.²⁸

²⁵ Chaudhari, Unnati. 2023. Local Governments Collecting Revenue from River-based Materials on their Own (in Nepali). *Himalkhabar*, December 22. Available at <https://www.himalkhabar.com/news/139367> accessed December 24, 2023.

²⁶ Office of the Auditor General. 2023. *Fourth Annual Report of Auditor General* (in Nepali). Kathmandu: Office of the Auditor General; Office of the Auditor General. 2023. *Fifth Annual Report of Auditor General* (in Nepali). Kathmandu: Office of the Auditor General.

²⁷ Province Comptroller of Accounts Office. 2023. *Bagmati Province Government Consolidated Annual Financial Statements for 2022/023* (in Nepali), pp. 51–54. Hetauda: Province Comptroller of Accounts Office, Bagmati Province.

²⁸ Those local levels are: Kathmandu Metropolitan City, Lalitpur Metropolitan City, Kirtipur Municipality, Tokha Municipality, Ramechhap Municipality, Dhulikhel Municipality,

4.2 TRANSFER OF GRANTS

As per constitutional provisions, provincial governments transfer four types of grants—fiscal equalization, conditional, special and complementary—to their local levels.²⁹ The National Natural Resources and Fiscal Commission (NNRFC) recommends fiscal equalization and conditional grants. Complementary and special grants are distributed according to provincial laws. The fiscal equalization grant can be spent by the local levels according to their priorities. Since local levels have limited sources of revenue collection and internal income, they primarily depend on fiscal equalization grants for the implementation of their plans and projects.

During DRCN's interaction with stakeholders in Sudurpaschim, Karnali, Lumbini, Gandaki, and Bagmati Provinces, local level representatives said that the practice of allocating scattershot budgets, small projects, and programs towards conditional grants largely violated the constitutional rights of local levels to implement their programs and priorities.³⁰ An employee of the Bagmati Province Policy and Planning Commission said that if the provinces could designate sectoral areas for programs instead of sending a specific conditional grant, the local levels could make better plans and implement them according to their priorities.³¹ He further stated that when the provincial government sends conditional grants for programs that do not match local priorities, it results in a lack of ownership, and creates problems in implementation.

Panauti Municipality, Panchkhal Municipality, Bhaktapur Municipality, Madhyapur Thimi Municipality, and Suryabinayak Municipality.

²⁹ Article 60 (4), (6) of Constitution and Section 8, 9, 10 and 11 of Intergovernmental Fiscal Arrangement Act, 2017.

³⁰ Opinions expressed in interaction programs on interrelationship between local and provincial levels organized by DRCN in December 2023 in Sudurpaschim, Karnali, Lumbini, Gandaki, and Bagmati provinces.

³¹ Conversation with the employee from the Province Policy and Planning Commission on October 13, 2023.

Local levels mostly complained that the proportion of conditional grants transferred from the provinces is high. The local level representatives demanded that fiscal equalization grants should be increased while conditional grants should be decreased, arguing that it is better to design and implement plans to address local level's demands rather than to appease the supply of budget from the province. In practice, the amounts of fiscal equalization grants have largely remained stagnant over successive years in some provinces, while the proportion of conditional grants has increased significantly. For example, the Karnali province had transferred NPR 800 million rupees as fiscal equalization grant to the local levels in the fiscal year 2021/022 and fiscal year 2022/023. However, conditional grants transferred by Karnali province to the local levels in the fiscal year 2021/022 was NPR 1,299,900,000/-. In fiscal year 2022/023 this amount was increased by almost 85 percent to NPR 2,398,729,000. Similar to Karnali, such grants are also increasing in Gandaki and Bagmati provinces (See table 2).

The case of Sudurpashchim and Lumbini Provinces is somewhat different from that of Karnali, Gandaki and Bagmati Provinces. In 2021/022, Sudurpaschim Province allocated NPR 724.5 million rupees under fiscal equalization grant. It was increased to NPR 765 million rupees in 2022/23. While in FY 2021/22, NPR 4,771,82,000 was allocated as conditional grants, and the amount was significantly reduced to NPR 98,222,000 in 2022/023. In this way, when the Province Comptroller of Account Office, Sudurpaschim Province inquired about the reason for the significant decrease in the amount of conditional grant, it was said that the provincial government had not formulated a conditional grant plan for all municipalities within the province. Instead, the *Nava Pravartan Kosh* was disbursed as a conditional grant exclusively to nine municipalities. As in Sudurpaschim, in Lumbini Province, the amount of conditional grant has been decreased and the amount of fiscal equalization grant has been increased (See Table 2).

Table 2: Grants disbursed by provinces to the local levels (in thousands)

Provinces	Fiscal Year 2021/22					Fiscal Year 2022/23						
	Fiscal Equalization	Conditional	Complementary	Special	Fiscal Equalization	Conditional	Complementary	Special	Fiscal Equalization	Conditional	Complementary	Special
Sudur-paschim	724,500	477,182	36,6751	343,313	765,000	98,222	197,279	208,774				
Karnali	800,000	1,299,900	1,000,000	300,000	800,000	2,398,729	512,000	305,000				
Lumbini	700,000	1,139,007	1,577,047	858,648	850,000	1,033,433.879	1,369,272.057	892,556.192				
Gandaki	110,0000	190,831	336,183	67,293	1,013,555.88	290,239.43	415,322.33	172,400.86				
Bagmati	1,488,097.473	2,515,021.475	2,424,146.195	365,281.858	3,504,125	5,978,808	5,648,050	1,578,600				

Source: The data for fiscal year 2021/022 of five provinces have been taken from the Auditor General's fifth annual report 2023. The 2022/023 data for Bagmati Province has been taken from the Intergovernmental Fiscal Transfer (Local Level) report of the Ministry of Economic Affairs and Planning of Bagmati Province. Remaining data have been taken from the Annual Evaluation Report of the Budget and Programs of Karnali, Sudurpaschim and Gandaki provinces for 2022/023).

It was also found that the amounts transferred from provinces to the local levels under the conditional grants appear to be more than the allocated amount. For instance, Bindaman Bista, member of Karnali Province Assembly and former Minister of Economic Affairs and Planning of Karnali, said, “Plans and programs are forwarded to the Ministry of Economic Affairs and Planning through various sources. Such programs are mostly distributed under conditional grants. In the middle of the fiscal year, more than the amount allocated in the red book is added under the conditional grant. The Ministry of Economic Affairs and Planning often allocates budget under miscellaneous headings. This is later distributed to local units under the conditional grant. This is a bad practice and must be stopped.”³² For example, in the fiscal year 2021/022, the amount allocated by Karnali Province under conditional grants was NPR 1,299, 900,000, while the total amount transferred by the end of the fiscal year was NPR 1,558,108,000. The figure shows that the transferred amount was 19.78% more than the initially allocated figure.³³ Bharat Bahadur K.C., member of the Bagmati Province Assembly, also stressed that the conditional grants should be reduced. He said, “When conditional grant programs are formulated, uniform programs are prepared for all local levels within the province, which are not suitable for the specific needs of the local levels. For example, tube well projects designed for the Tarai and Inner Terai region of Chitwan, Makwanpur, Sindhuli districts are also sent to the Himalayan areas like Dolakha and Rasuwa , but the program is not applicable there. Therefore, reducing conditional grants means proper distribution of resources in the federal context.”³⁴ Prakash Paudel, an officer at Birendranagar Municipality, said

³² Opinions expressed in the interaction program on interrelationship between province and local levels organized by DRCN on December 18, 2023 in Birendranagar, Karnali Province.

³³ Office of the Auditor General. 2023. *Auditor General's Fifth Annual Report 2023: Karnali Province* (in Nepali). Kathmandu: Office of the Auditor General

³⁴ Opinion expressed in the discussion program on ‘Interrelation between Province and Local Levels: Provisions and Practices’, organized by DRCN and Martin Chautari, on December 19, 2023 in Kathmandu.

that programs made under conditional grants are largely “fragmentary, small, and influenced by local elites.”³⁵

Complementary and special grants are transferred as per the provincial laws. In Sudurpaschim Province and Bagmati Province, different criteria have been made for complementary grants limits that differ according to the rural municipality, municipality, sub-metropolitan city, and metropolitan city. Each local level is required to propose multi-year programs. In Sudurpaschim Province, these programs should be completed within three years while in Bagmati Province they should be completed within two years. According to Karnali Province’s complementary grant procedures, when the local levels request for a complementary grant, the total cost estimate of the proposed project should range between a minimum of NPR 10 million and a maximum of NPR 20 million, and the projects should be completed within two years. Similarly, local levels in Lumbini Province can propose complementary grant programs from NPR 10 million to NPR 100 million and while in Gandaki Province the figures are NPR 10 million to NPR 30 million. The time period to complete the programs is not elaborated in the procedures related to complementary grants of the latter two provinces (See Table 3).

Programs under the complementary and special grants were called through proposals submitted via electronic means in all provinces included in this study. The programs received were scrutinized and selected according to the provincial complementary and special grants procedure. According to Padam Raj Joshi, Secretary of the Provincial Policy and Planning Commission of Sudurpaschim Province, the online submission and selection process helped to stop individuals from approaching provincial ministries, and minimized the chances of undue political influence.³⁶

³⁵ Opinions expressed in the interaction program on interrelationship between province and local levels organized by DRCN on December 18, 2023 in Birendranagar, Karnali Province.

³⁶ Conversation with Province Policy and Planning Commission Secretary Padam Raj Joshi on December 8, 2023.

Table 3: Timeline for Complementary Grant Plans and Programs, Budgets and Selection Process

Province	Program Timeline and Budget Ceiling	Coordinator of Program Selection Committee	Timeline to complete the Programs
Sudur-paschim ³⁷	<ul style="list-style-type: none"> ■ One year programs of minimum 5 million to 10 million (Rural Municipality) ■ Multi year programs of minimum 10 million to 20 million (Rural Municipality) ■ One year programs of minimum 5 million to 1 million (Municipality) ■ Multi year programs up to three years of minimum 10 million to 30 million (Municipality) ■ One year programs of minimum 10 million to 20 million (Sub-Metropolitan City) ■ Multi year programs upto three years of minimum 20 million to 50 million (Sub-Metropolitan City) 	Vice Chairman, Provincial Policy and Planning Commission	One year or Multi Year Program
Karnali ³⁸	<ul style="list-style-type: none"> ■ Minimum 10 million to 20 million 	Secretary of Province Ministry of Economic Affairs and Planning	Up to 2 years

³⁷ Sudurpaschim Province Complementary Grants Procedures 2023 (in Nepali).

³⁸ Complementary Grant (Fourth Amendment) Procedures 2021 (in Nepali).

Province	Program Timeline and Budget Ceiling	Coordinator of Program Selection Committee	Timeline to complete the Programs
Lumbini ³⁹	<ul style="list-style-type: none"> ■ Minimum 10 million to 100 million 	Secretary of Province Ministry of Finance	Not mentioned
Gandaki ⁴⁰	<ul style="list-style-type: none"> ■ Minimum 10 million to 30 million 	Secretary, Province Ministry of Finance	Not mentioned
Bagmati ⁴¹	<ul style="list-style-type: none"> ■ Minimum 10 million to 20 million (Rural Municipality) ■ Minimum 20 million to 30 million (Municipality) ■ Minimum 30 million to 40 million (Sub Metropolitan City / Metropolitan City) 	Secretary, Ministry of Economic Affairs and Planning	Upto 2 years

Source: Complementary Grants Guidelines of Respective Provinces

In Sudurpaschim province, the vice-chair of the Provincial Policy and Planning Commission is the coordinator of the Programs Selection Committee for complementary and special grants programs. However, in Karnali, Lumbini, Gandaki, and Bagmati provinces, the Ministry of Economic Affairs and Planning coordinates the selection of complementary and special grant programs. In Karnali Province too, the programs were selected by the Provincial Planning Commission in the fiscal year 2019/020. After that, during a period when major reshuffling

³⁹ Province Complementary Grant Management Procedure 2021 (in Nepali).

⁴⁰ Procedure Related to Complementary Grant (First Amendment) 2019 (in Nepali).

⁴¹ Procedure Related to Complementary Grant 2020 (in Nepali).

was taking place in the provincial government, including the post of the Vice-chair of the Planning Commission went vacant, the Ministry of Economic Affairs and Planning began looking after the program. Officials of the Sudurpaschim Province Policy and Planning Commission claimed that the distribution of complementary and special grants by the Planning Commission will increase transparency in the selection of programs, reduce the politicization of grant distribution, and more attention can be given to the provincial and national policies and goals.⁴²

According to an employee of the Policy and Planning Commission of Bagmati Province, funds cannot be allocated generously for conditional, complementary and special grants due to a large number of projects. Consequently, smaller budgets are allocated to accommodate more programs. The employee further claimed that there is a greater chance of political interference in such cases.⁴³

4.3 PROBLEMS IN IMPLEMENTING CONDITIONAL, COMPLEMENTARY AND SPECIAL GRANT PROGRAMS

The provincial and local level programs under conditional, complementary and special grant have not been implemented on time due to various reasons. One of the major reasons for this is the lack of adequate human resources. Local levels also failed to submit expense details related to the grants and periodical progress reports within the stipulated time. Therefore, the provincial ministry could not release successive installments in time. Similarly, there was a tendency among some local levels to fail to return unspent grant amounts at the end of the fiscal year as specified by law, or they returned partial amounts only. The

⁴² Conversation with Padm Raj Joshi, Secretary of the Sudurpaschim Province Policy and Planning Commission on December 8, 2023.

⁴³ Conversation with the employee of the Province Policy and Planning Commission on October 13, 2023.

local levels had to commit 50% of the budget toward implementing complementary grant programs, which they could not fulfill later. This caused delay or non-implementation of programs. Many local level elected representatives reported that the implementation of conditional grants and other programs was difficult due to ministries not sending the implementation procedures on time.

5. PLANNING AND IMPLEMENTATION

Provincial and local levels both have complaints against each other. There are concerns about duplication because the federal and provincial governments also allocate budgets for smaller projects which are also done by the local levels. Since there is no clarity on the types of projects to be demanded from federal or provincial governments, local levels forward bigger projects to both the federal and provincial governments. When one of the awarding governments accepts a project, local levels do not withdraw their application to another government for the same project, which creates the chance of duplication in budget allocation.

A widely reported complaint was that provincial governments will allocate budget to smaller projects and send them to local levels for implementation. Some examples in Karnali province were the Chief Minister Employment Program, Women's Income Generation Program, Daughter's Bank Account: Life-long Security Program, and Brighter Karnali Program, which are directly connected to the local levels in terms of implementation. Representatives of local governments criticized that the budget becomes fragmented and scattershot because of these programs. An employee from the Office of Chief Minister and Council of Ministers noted, "small amounts are allocated as an attempt to address multiple interests. This often leads to incomplete plans and budget exhaustion. Budget is allocated without taking care of the continuation

of the particular project. This neither produces a result, nor does it bring recognition for the government. But the political leadership is solely responsible for it.”⁴⁴ Bindaman Bista, member of Karnali Province Assembly and the former Minister of Economic Affairs and Planning also admitted that the provincial government has allocated budgets for small schemes. However, he claimed that those plans are according to the expectations and demands of the people. He said, “Local level people’s representatives do not take projects to areas with voters of different political beliefs, so the members of the provincial assembly should take the initiative and take projects there through the provincial government. Therefore, smaller plans are required. It is not appropriate to discrimination among legitimate demands of the people on the basis of political belief. Such behavior should be changed.”⁴⁵ Since there is no clear legal system on the criteria for the three governments in terms of budget amounts for projects, the process of creating duplicate and piecemeal plans will continue.

Actually, provinces should not prioritize the plans requested by the local levels on its budget. The National Planning Commission has introduced the concept of a project bank in the fifteenth plan term to develop a system for identifying and selecting projects based on objective standards. But its effective implementation was not observed in the provinces and local levels included in this study. It was reported that Lalitpur Metropolitan City has entered its projects online in the National Project Bank. “We have been connected to the project bank online. By connecting to this system, one can easily know the priority of the projects from the federal to the ward level. Some elected representatives are reluctant to go with this concept since one cannot wantonly manipulate

⁴⁴ Conversation with the employee of the Office of Chief Minister and Council of Ministers on October 12, 2023.

⁴⁵ Conversation with Bista on October 12, 2023.

projects in the online project bank,” said Manjali Shakya Bajracharya, Deputy Mayor of Lalitpur Metropolitan City.⁴⁶

Section 106 (1) of the Local Government Operation Act, 2017 outlines a legal provision requiring provincial governments to provide guidance on the budget ceiling and the provincial government’s priority and criteria for rural municipalities and municipalities in advance of their annual planning and budget allocation process. The Provincial Project Selection Directives says that only provincial-level plans should be considered by separating projects that fall under the responsibility of the provincial government from those that fall under the responsibility of local levels. The directive further says that project demands should be collected by conducting meetings at the provincial constituency level and the district level. Participants in these meetings include members of the provincial assembly, elected representatives of rural municipalities and municipalities, members of the district coordination committee, and heads of thematic offices and planning sections. However, local levels have complained that provinces do not allocate budget to the projects of their priority and need. According to an official of Bagmati Province Policy and Planning Commission, there is no practice of conducting meetings at the provincial constituency level despite the provision contained in the Provincial Project Selection Directives to conduct such meetings at the provincial constituency level and district level.⁴⁷

Vice Chairperson of Karnali Province Planning Commission, Yogendra Bahadur Shahi said that the Karnali Province Planning Commission is trying to formulate a plan from the local level. Elaborating further on the proposed provision, he said, “The ward-level meeting selects three plans and sends them to the local level, and the project selection

⁴⁶ Opinion expressed in the discussion program on ‘Interrelation between Province and Local Levels: Provisions and Practices’, organized by DRCN and Martin Chautari, on December 19, 2023 in Kathmandu.

⁴⁷ Conversation with the employee of the Province Policy and Planning Commission on October 13, 2023.

committee there chaired by a member of the Provincial Assembly approves the ward's project. Similarly, the same committee also approves three projects decided by the local level. The provincial government is discussing mandatory allocation of budget to these projects.⁴⁸ However, problems have arisen due to the lack of consistency in the planning guidelines and their implementation. Therefore, it is necessary to make the implementation of guidelines more effective.

5.1. PROBLEMS IN PROJECT IMPLEMENTATION

Some challenges have emerged during implementation of projects set by the provincial government at local levels. Provincial representatives raise concern about the local level's lack of reporting despite receiving budgets for implementing the provincial plan, leading to weakened coordination in plan execution. A former member of Sudurpaschim Province Assembly, Umadevi Badi, asserted that local levels ignored the implementation of provincial government projects.⁴⁹ Users committees are formed by the local levels to implement provincial plans, but the local levels lack information on the funds allocated by the province for their implementation. Complaints arise about users committees not providing settlement details to the local levels.

DRCN researchers heard in many places that the local levels should be solely responsible for monitoring provincial government plans and for reporting on the completion of such plans. Local level elected representatives admit that this has become a widespread problem. Dev

⁴⁸ Opinions expressed in the interaction program on interrelationship between province and local levels organized by DRCN on December 18, 2023 in Birendranagar, Karnali Province.

⁴⁹ Opinions expressed in the interaction program on interrelationship between province and local levels organized by DRCN on December 12, 2023 in Tikapur, Sudurpaschim Province.

Kumar Subedi, former Mayor of Birendranagar Municipality, said, “The issue of monitoring is just a battle for supremacy between the local and provincial levels. Such problems are more at the local levels. They have the mindset that provincial assembly members and provincial technicians should not come to monitor at the local level. This should change. Not accepting the existence of the other levels in the current federal structure rejects the very essence of the constitution.”⁵⁰ However, the provincial government emphasizes a collaborative approach to monitoring and evaluation, rather than granting sole authority to the local level.

Section 8 of the Provincial Integrated Grant Management Procedure, 2019, by the Bagmati Province government, specifies that there should not be duplication of grants. But the 60th Annual Report of the Office of the Auditor General 2022 reveals that four local levels in Chitwan district of Bagmati Province had disbursed NPR 50,843,000 for duplicated purposes. This indicates a doubling of subsidies, emphasizing the need for coordination between the provincial government and the local levels to control grant duplication and align grants with technical services and market viability.⁵¹

6. MECHANISMS OF INTERRELATIONSHIP

In a federal system, the relationship between governments is established through formal, informal or both channels. Various bases and mechanisms are needed to make the interrelationship efficient and effective. The Constitution and prevailing laws define and direct the formal relationships, while informal relationships are formed

⁵⁰ Opinions expressed in the interaction program on interrelationship between province and local levels organized by DRCN on December 18, 2023 in Birendranagar, Karnali Province.

⁵¹ Office of the Auditor General. 2022. *Auditor General's Sixtieth Annual Report 2022* (in Nepali). Kathmandu: Office of the Auditor General.

through meetings, gatherings, or other means of communication. Also, in a federal system, the interrelationship between governments is either cooperative or adversarial. Cooperative relationships arise from co-decision, coordination and interaction, whereas an adversarial relationship is the product of competition, control and pressure.⁵² The Constitution and designated laws provide some formal structures for establishing effective intergovernmental relations.

6.1. PROVINCIAL COORDINATION COUNCIL

The Local Government Operation Act, 2017, and the Federal, Province and Local Levels (Coordination and Interrelation) Act, 2020, have provision to establish the Provincial Coordination Council (PCC) to facilitate coordination between provinces and local levels. This council is specifically designed to address issues related to policy coherence, the use of concurrent jurisdiction, and the management and distribution of natural resources.

The composition of the council is thus—the Chief Minister, Economic Affairs Minister, and the Internal Affairs Minister. The Chief Minister then nominates the remaining members, who are either the chairpersons/ mayors or the deputy chairpersons/deputy mayors of the municipal units across the province, or who are either the chairperson or deputy chairperson of district coordination committees across the province, while ensuring that at least one third of the total members of the council are women, and that each district in the province has at least one representative at the council. Prior to the Federal, Province and Local Levels (Coordination and Interrelation) Act, 2020, all heads and deputy heads from all the rural municipalities, municipalities and district

⁵² DRCN. 2020. The Interrelationship between Three Levels of Governments in Nepal's Federal Structure. Lalitpur: DRCN.

coordination committees in the province were members of the council. However, concerns have been raised about the Chief Minister's role in appointing members, with complaints suggesting that the selection process tends to be politicized, as members close to the Chief Minister are often chosen. Some elected local representatives interviewed during this study argued that the effectiveness of the PCC is hindered not by its size but rather by the lack of clear methods and procedures (See Table 3).

Such meetings can remain effective only if the problems are identified, a concrete deadline is set, and the persons or institutions responsible for resolving them are clearly specified. However, some decisions made by the PCC lack a measurable implementation status, and it is often unclear who the responsible party is. In Karnali Province, seven PCC meetings have taken place, with the latest occurring on 16 May, 2023. During this meeting, 15 points were decided on issues related to coordination between local levels and the provincial government. However, when DRCN assessed the implementation status in October 2023, no progress had been made on the decisions. Responding to this observation, a secretary from the Office of the Chief Minister and Council of Ministers of Karnali Province remarked, "The decisions of the Provincial Coordination Council are good, but the implementation aspect is lax as there is no binding system. The interest and ability of the leadership also have an impact. For the Provincial Coordination Council to have an effective role, the Chief Ministers must show more of a leadership role as they are seen as the primary leaders. Unfortunately, we have not seen such leadership from any Chief Minister. Since the local levels are not interested and the members of the council are not active, the coordination council has not been able to play an effective role. It doesn't see the council will be effective unless compelled by the law."⁵³ To enhance the effectiveness of council meetings, it is essential to thoroughly review past decisions and their implementation status before each meeting. Otherwise, meetings risk becoming mere formalities.

⁵³ Conversation with the employee on October 12, 2023.

Table 4: PCC Meeting Details (Till December, 2023)

Province	Meetings						
	First	Second	Third	Fourth	Fifth	Sixth	Seventh
Sudurpaschim	October 8, 2018	May 26, 2019	January 12, 2021	July 4, 2023	Not conducted (NC)	NC	NC
Karnali	January 28 and 29, 2019	December 26 and 27, 2019	April 10, 2021	July 9, 2021	January 27, 2022	September 13, 2022	May 16 and 17, 2023
Lumbini	September 25 and 26, 2018	May 3, 2019	September 23, 2019	January 31, 2021	March 16, 2022	September 12, 2022	NC
Gandaki	May 28, 2018	November 27 and 28, 2018	December 19 and 20, 2019	April 19, 2022	March 3, 2023	November 22, 2023	NC
Bagmati	May 21 and 22, 2018	June 12 and 13, 2019	March 25, 2021	NC	NC	NC	NC

Source: The meeting dates for the Sudurpaschim, Karnali, Gandaki, and Bagmati provinces were obtained from the respective Chief Minister and Council of Ministers' offices. The meeting date for the Lumbini province was retrieved from the website <https://ocmcm.lumbini.gov.np/list/प्रदेश%20समाजवादी%20मंत्रालय> of the Chief Minister and Council of Ministers on December 11, 2023.

In Bagmati Province, the third council meeting on 25 March, 2021, passed the Meeting Procedure, 2020, specifying that council meetings should occur twice a year. However, no subsequent meetings were held. The meeting scheduled for 1 June, 2023, was canceled for special reasons, as reported by a secretary from the Office of Chief Minister and Council of Ministers of Bagmati Province.⁵⁴ Six meetings of PCC have been conducted in Gandaki and Lumbini province as of the end of December 2023 (See Table 4).

6.2. PROVINCE DEVELOPMENT COUNCIL

According to the Province Policy and Planning Commission/Province Planning Commission Formation and Operation Order, there is a provision to form a Provincial Development Council in each province. This council is coordinated by the Chief Minister and includes ministers of the provincial government, heads or deputy heads of the local levels, chief secretaries of the province, secretaries and vice-chairperson of the Policy and Planning Commission, and experts from various organizations. This council is formed to guide the province and local levels by discussing the long-term or periodical development plans formulated by the Provincial Policy and Planning Commission. This platform has also been used significantly to discuss the issues of planning and implementation at the provincial and local levels.

At the meeting of the Bagmati Province Development Council held on 21 December, 2020, the members suggested to the local levels to formulate a periodic plan, and suggested to the province to refer to such periodic plans from the local levels while formulating its plans. They also suggested that clear criteria must be established for the levels of government to implement programs in terms of volume of investment and to review the programs in the project banks.

⁵⁴ Conversation with the employee on October 12, 2023.

The conclusion of the second meeting of the Bagmati Province Development Council was to make the work of the Policy and Planning Commission more organized and effective, to make the planning and budget allocation process of the provincial government more systematic by drafting and implementing annual planning procedures, and to establish a provincial project bank to select and implement plans. The meeting also decided that the provincial government would provide the necessary support, coordination, and facilitation to the local levels in formulating the periodic plan and mid-term expenditure framework in order to institutionalize the planned development process at the local level.⁵⁵

In the second meeting of the Karnali Province Development Council, it was decided to emphasize agriculture and forest products and industry, to emphasize on ensuring employment in addition to continuing infrastructure development, and to use digital technology in education. The meeting also decided that the council will complete incomplete plans, study new plans, manage human resources, and attract investment by managing the project bank.⁵⁶

It is unclear when and which ministry or agency of the provincial government will implement the decision of the provincial development council. The meetings of the council have become nothing more than a ritual because the provinces have not been able to implement relevant issues such as creating a project bank comprising projects requested by the local levels, and selecting from among those plans while formulating provincial government plans. The January 30, 2019, meeting of the Lumbini Province Development Council, decisions were found to have

⁵⁵ Provincial Policy and Planning Commission. 2021. *Report of Second meeting of Bagmati Province Development Council 2020* (in Nepali). Hetauda: Province Policy and Planning Commission, Bagmati.

⁵⁶ Naya Patrika. 2021. Karnali's Emphasis on Agriculture and Forest products and Industry (in Nepali). April 26. Available at <https://nayapatrikadaily.com/news-details/63279/2021-04-26>, accessed December 21, 2023.

been made on matters outside the scope of the Council. The meeting decided to ask the federal government to change the centers of Ruru Rural Municipality in Gulmi District and Jhimruk Rural Municipality in Pyuthan.

6.3. PROVINCIAL DEVELOPMENT PROBLEM SOLVING COMMITTEE

According to the Directives for Monitoring and Evaluation of Provincial Plans, the Provincial Development Problem Solving Committee is a mechanism to review the progress of programs or plans run under the ministries and agencies of the provincial government. Provincial ministries also have development problem solving committees under them. But, problems that cannot be solved by these committees are handled by the provincial development problem solving committees, which are chaired by the Chief Ministers of the provinces.

Province Development Problem Solving Committee in Lumbini met 8 times in the fiscal year 2021/022 and made 91 decisions. Those meetings reviewed the progress of the conditional, special, and supplementary grants sent to the local level. The meeting also discussed problems such as the local levels' tendency to not send back the remaining funds from the aforementioned grants, and the ineffectiveness of monitoring and evaluation of the projects.

It was reported that the implementation of the decision made in these meetings is also weak. For example, the meeting of the Province Development Problem Solving Committee in Gandaki was scheduled for three times in the fiscal year 2021/022, but the meetings were held only twice. The first meeting discussed nine problems and the second meeting eight problems. Out of the eight decisions taken at the second meeting, four were repetitions from the first meeting.

7. CONCLUSION

Provinces and local levels share an interdependent relationship. Provinces formulate laws, assist in administrative management, and fiscal transfers to the local levels. Local levels help in implementation of provincial programs. However, provinces and local levels have grievances with each other. Since, provinces and local levels work closely with people the practical difficulties are evident. Primarily, they have encountered difficulties in various areas including employee management, enactment of laws, formulation of plans and its implementation. There are allegations from local levels that provinces do not coordinate with local levels in the planning stage and have encroached on the local level jurisdiction by setting up offices at the district level of the same nature as that of local governments. Similarly, provinces allege that local levels do not coordinate and cooperate with provinces in formulating plans and its implementation. Since the implementation of federalism is in early stages, it can be expected that the lack of clarity on roles and duplication of programs between the two levels may take place.

Local governments expressed grievances against the province governments' practice of allocating conditional grants specifying programs and projects. The programs selected under conditional grants are likely to be fragmented because of limited budget and political influence. As the main purpose of federalism is the decentralization of power, local levels should have the autonomy to make decisions based on their needs. Respecting the autonomy of local levels, the provinces should decrease the proportion of conditional grants and increase the fiscal equalization grants. If the provinces have to provide conditional grants, they should provide it without specifying programs and projects. There should be a

provision that the local levels can spend the conditional grants in certain sectors based on their needs and priorities. Another challenge that has arisen due to the lack of clarity in the legal framework is in revenue collection and distribution. For instance, there is a disagreement between local levels and provinces on the sharing of revenue generated from the riverine products. Local governments are reluctant to give the mandatory share of 40% of the revenue collected from riverine products to the province.

Federalism is a complex system of governance. Challenges emerge due to more than one level of governments operating in the overlapping territory and people. Recognizing this fact, to resolve challenges and build cordial relations several legal frameworks have been created as per the Constitution. Intergovernmental institutions like Province Coordination Council and Province Development Council have been set up to pave the way for mutual communication and coordination between local and provincial level.

However, limited utilization of these institutions is concerning. The coordination councils have not played a proactive role as their decisions have not been implemented effectively. The lack of implementation of decisions made by the mechanisms coordinated by provincial chief ministers indicates a lack of will power among the leadership. The ineffectiveness of those mechanisms which are important for coordination and cooperation between provinces and local levels is not a positive sign for the implementation of federalism. Therefore, for the implementation of the decisions made by these mechanisms, a permanent secretariat should be created and such mechanisms should be activated at other times as well. If the intergovernmental mechanism is used more, the interaction and discussion between these two levels will be extensive, and solutions to problems will be found. It is already

getting too late to successfully implement federalism by improving the relationship between the local and provincial levels by making maximum use of such mechanisms.

The Constitution of Nepal establishes three tiers of government: federal, provincial, and local. It emphasizes the principles of coordination, cooperation, and coexistence among these levels. According to the recommendations of the National Natural Resources and Finance Commission, the relationship between the province and local levels has become interdependent due to the implementation of financial federalism, employee management, law making, plan implementation, etc.

In the initial years of federalization, there were misunderstandings and confusion between provinces and local levels. However, some of these practical challenges have been resolved through mutual coordination and the formulation of policies and laws. Despite progress, certain issues persist. Given that there are three governments serving the same geography and citizens, challenges in their relationships are expected. To address potential disputes and ensure smooth relations, the constitution and other laws have outlined mechanisms. However, there is concern about the limited utilization of these mechanisms. It is crucial to enhance the relationship between local and provincial levels by maximizing the use of such mechanisms for the successful implementation of federalism.



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