



# **Ethnic Federalism in Nepal**

## **A Remedy for a Stagnating Peace Process or an Obstacle to Peace and Stability?**

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## ***INTRODUCTION***

Democratization and peace are fundamental principles promoted in post-conflict countries to increase and sustain stability after turmoil. This is not difficult to understand, nor is it controversial. Supporting countries struggling to come to terms with systemic change in a positive way should always be at the forefront of international politics and development. Nevertheless, these two principles do not necessarily come hand in hand. A contemporary example is Libya, whose rush to elections could very well trigger a relapse into violence.<sup>2</sup> Libya is indicative of a nation that will have to balance democratic reforms with conflict management and resolution mechanisms to avoid further instability. Ultimately, post-conflict countries may find themselves having to choose between prioritizing one, possibly at the expense of the other.

This study attempts to bridge the gap between traditional democratization theory and peace and conflict research by linking the federalization process in Nepal to the prospects of peace and stability in the country. The focus is on whether the proposed federalization in Nepal can contribute to peace and stability, or whether this democratization process hampers the prospects of peace in the country. The research question for this study is therefore:

*Does the federalism proposed in Nepal enhance the prospects for peace and stability in the country?*

To answer this question, the study will base its findings on first-hand interviews with a number of key stakeholders in Nepal, as well as secondary resources such as reports and articles. This study addresses the Nepali context, and conclusions and arguments are not necessarily generalizable to other federalization processes. The aim is instead to illuminate

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<sup>1</sup> The title of this paper, *Ethnic Federalism in Nepal: A Remedy for a Stagnating Peace Process or an Obstacle to Peace and Stability?*, needs some clarification. This study does not attempt to connect ethnic federalism to the peace process in any way, but exclusively to the notion of peace and stability. Moreover, the implication that the peace process is stagnating is one shared by many, and cited in interviews with a representative from the United Nations, 13 April 2011, Patan as well as with a representative from the donor community, 14 April 2011, Kathmandu. This commonly accepted notion is further highlighted in International Crisis Group: "Nepal's Fitful Peace Process", Asia Report No. 120, 7 April 2011.

<sup>2</sup> See for example, Vidar Helgesen, Secretary-General of International IDEA, commentary "Don't Rush to Elections in Libya", on 26 August 2011.

how the ongoing federalization process in Nepal affects the prospects for peace in the country. It is concluded that as it currently stands, such a federalization process would do little to promote peaceful development and, in effect, risks jeopardizing peace and stability in the future.

In what follows, two brief sections are dedicated to outlining the theoretical foundation and methodological approach of this study in order to give the reader insight into the point of departure of the study. Following this is a comprehensive section on the federalization process in Nepal, and what a federal state in Nepal means. Then, an analytical section divided into an inductive and a deductive part will highlight the implications of the Nepali federalization process on the prospects of peace and stability – both from the understanding on the ground, as well as in connection to the theoretical framework. This twin-track analysis will allow the study to pick up on issues that may fall outside the theoretical framework in this particular case, whilst at the same time allowing for a more stringent theoretical analysis of the context. Both of these will prove crucial in answering the research question. Summing up is a conclusion, restating the key findings and contextualizing these findings further.

## ***FEDERALISM AND ETHNIC CONFLICT IN THEORY***

To theoretically ground this study, it has taken its point of departure in a debate between two schools of thought – one that argues for federalism as a means of safeguarding stability in diverse countries, and the other that argues against it. Nancy Bermeo's term of *peace-preserving federalism* sufficiently encompasses the primary beliefs of the first of these schools.<sup>3</sup> Proponents of federalism as a means of managing ethnic tension hold that federalism allows ethnically diverse groups a level of autonomy and limits discriminatory practices. Federalism also provides a checks and balances system between regional and national levels, reducing fears by minorities. Lake and Rothchild claim this checks system reduces the ethnic security dilemma, and thus decreases interethnic tensions.<sup>4</sup>

In stark contrast to this school of thought stands the belief that federalism exacerbates prospects for peace and stability by providing regional groups with the ability to finance and mobilize armed violence to a larger extent. This is a particularly prominent phenomenon in ethnically divided societies.<sup>5</sup> Bunce, for example, illustrates how the federal structures in the Soviet Union, Yugoslavia and Czechoslovakia provided an enabling environment for these states to collapse under ethnic tension.<sup>6</sup>

Later findings by Saideman et al. (2002) offer an intermediary stance, in that federalism is likely to increase ethnic protest but decrease ethnic rebellion.<sup>7</sup> The findings prove somewhat inconclusive, but they still largely echo Lijphart (1977)<sup>8</sup> and others in that federalism can be a means to manage intergroup conflict. In increasing the likelihood of ethnic protests, perhaps it is not the notion of federalism itself that triggers further conflict, but a misguided approach from the state in handling such protests in post-conflict

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3 Bermeo, Nancy (2002): "The Import of Institutions", *Journal of Democracy* No. 13.

4 Lake, David & Rothchild, Donald (1996): "Containing Fear: The Origins and Management of Ethnic Conflict", *International Security* No. 21.

5 Bakke, Kristin & Wibbels, Erik (2006): "Diversity, Disparity and Civil Conflict in Federal States", *World Politics* Vol. 59 No. 1: p. 7.

6 Bunce, Valerie (1999): *Subversive Institutions: The Design and the Destruction of Socialism and the State*, Cambridge University Press.

7 Saideman, Stephen, Lanoue, David, Campenni, Michael, Stanton, Samuel (2002): "Democratization, political institutions, and ethnic conflict: A Pooled Time-Series Analysis, 1985-1998", in *Comparative Political Studies*, Vol. 35 No. 1: 103-129. Of interest to this study is the notion of rebellion, since it is defined as "a conscious attempt to destabilize the government".

8 Lijphart, Arend (1977): *Democracy in Plural Societies: A Comparative Exploration*, Yale University Press.

contexts. In other words, it seems possible that federalism is in and of itself a positive force for peace and stability, but if mismanaged can steer a country down the path of turmoil.

This study will take this as its point of departure: Federalism is in principle a useful mechanism by which post-conflict states, and in particular ethnically diverse states, can limit fears and tensions, and is thus a force for peace and stability. To strengthen the analytical framework, the study will rely on the in-depth systematic analysis of federalism and ethnic conflict proffered by Bakke and Wibbels (2006).<sup>9</sup> Their study highlights four key findings; 1) fiscal decentralization increases the likelihood of ethnic conflict; 2) large national governing parties that exclude minorities increase prospects of ethnic conflict; 3) interregional inequality increases the likelihood of ethnic conflict when groups are ethnically concentrated; 4) increased fiscal transfers from national governments to regional governments decreases the likelihood of ethnic protest when ethnic groups are concentrated. Using this as the theoretical framework for this study will guide a part of the analysis in determining whether the federalization process in Nepal is likely to enhance the prospects of peace and stability.

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<sup>9</sup> Bakke, Kristin & Wibbels, Erik (2006): "Diversity, Disparity and Civil Conflict in Federal States", *World Politics* Vol. 59 No. 1.

## ***METHODOLOGICAL APPROACH***

In approaching the research question, a number of interviews were undertaken in Nepal between 1 March and 7 May 2011. The interviewees included religious and community leaders, parliamentarians and senior political party representatives, civil servants, members from the international donor community, and political analysts. All in all, 15 people were formally interviewed for this study. Due to the request of anonymity by many interviewees, their identity will not be revealed in this report, but citations will instead refer to their specific capacities. To support the information gathered from the interviews, this report also bases its findings on second-hand information from reports and articles.

Semi-structured interviews were predominantly adopted to allow respondents space to develop arguments and thoughts related to the topic without interference. However, some of the interviews held a more unstructured nature. The latter was the case in instances where the interviewees played an integral part of the federalization process, and had such insight into the process that guiding respondents was deemed unnecessary. Moreover, unstructured interviews were also used with a number of interviewees (both formally and informally) to enhance understanding of the broader Nepali context, in order to appropriately situate the study and understand the interlinkages between federalization, peace and stability and the numerous other systemic changes taking place in the country and the region.

### ***Limitations***

A methodological shortcoming of this study is the fact that interviews were to a large extent held in Kathmandu. This may give the findings a bias, as national developments are possibly viewed differently in the capital as opposed to in the countryside (and particularly so in dealing with federalism). Nevertheless, some of the interviewees were from and represented rural communities, and claimed to speak on their behalf. Nuancing the interview findings with other reports that base their findings on research gathered from across the country, is another means of limiting this selection bias.

Another limitation of this study is the highly political nature of the topic that it covers. On the one hand, this contemporary issue rendered access to very prominent persons from the Nepali political elite, enabling this study to draw on information from individuals deeply engaged in the politics of the federalization process. On the other hand, the fact that it is such a political issue, also creates complications in discerning fact from political agendas. The polarization of the federalism debate extends beyond the realm of politics, and this problematique is therefore not solely restricted to these interviewees, but is rather a factor with all persons interviewed, whether political or not. To circumvent this problem, many of the facts cited in this report have had to be corroborated and cross-checked with other references and information.

## ***FEDERALISM – THE NEPALI WAY***

Federalism as a state structure in Nepal has been bubbling under the surface for a long time. Already in the middle of the 20<sup>th</sup> century, efforts were made by the Madhesi in the south of the country to develop a federalist region. As the decades passed, such demands permeated throughout the country, and seem to largely have been a reflection of the perceived inequalities between the capital and the countryside.<sup>10</sup> The Maoist insurgency, when it broke out in 1996, included federalism in their 40 point agenda. This seems to have been a Madhesi-influenced move by the Maoists to capitalize on growing discontent to enable a mobilization of armed violence, in particular in rural communities.<sup>11</sup> Despite having been on the Maoist agenda throughout the conflict, the Maoists only started politically pushing for federalism after the Madhesi uprising in 2007. The Madhesi population resides in the southern parts of the country along the Indian border, and have strong ties to the regional hegemony. As such, this group has the ability to halt the influx of goods to Kathmandu from India, Nepal's biggest trading partner. This bargaining leverage exerted over the Maoists, however, does not seem to have started the initiative on federalism, but only facilitated its introduction to mainstream politics after the conclusion of the war.<sup>12</sup>

By and large seen as a result of the introduction of federalism into mainstream politics, Nepal signed the International Labor Organization's Convention on Indigenous and Tribal People (ILO 169) in August 2007, being only the second country in all of Asia to do so.<sup>13</sup> ILO 169 emphasizes the important contribution of indigenous peoples to social development and stability, and recognizes that indigenous peoples have the right to “self-determination”. Exactly what “self-determination” means is ambiguous at best, and this has proven to significantly complicate the post-2007 political landscape, since the

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10 Interview with a political analyst from an internationally renown NGO, 7 April 2011, Patan; Interview with a parliamentarian representing the royalist party (RPP), 18 March 2011, Kathmandu; Interview with a representative from the donor community, 14 April 2011, Kathmandu.

11 Interview with a political analyst from an internationally renown NGO, 7 April 2011, Patan; Interview with a political analyst from a Nepali organization, 29 April 2011, Kathmandu.

12 Interview with a parliamentarian representing the royalist party (RPP), 18 March 2011, Kathmandu; Interview with a political analyst from a Nepali organization, 29 April 2011, Kathmandu; Interview with senior representative from UML, 25 March 2011, Kathmandu.

13 Interview with a political analyst from an internationally renown NGO, 7 April 2011, Patan; Interview with a political analyst from a Nepali organization, 29 April 2011, Kathmandu.

ratification of this convention has elevated expectations amongst ethnic and indigenous minorities.<sup>14</sup> Activists from the latter often interpret the right to “self-determination” as equitable to political autonomy and, if necessary, secession.

Although the issue of federalism in and of itself is not largely contested, the modality of federalism (i.e. political, ethnic, geographic etc.) is. It is a commonly accepted fact that a federal state would enhance access to political influence across the country, in particular in the Far West Region which is currently politically and economically isolated due to its geographical remoteness.<sup>15</sup> With increased access to political influence, such regions are expected to enjoy a proportional share of political and economic investment to support development. There is no strong and coherent force that radically opposes the notion of federalism, but the principles of federalism are more complicated.

### ***The Nature of Federalism***

The three main parties (Maoists/UCPN-M, UML and Nepali Congress) have agreed on nine founding principles for establishing provinces. Five of these are identity-oriented, referring to ethnic and cultural ties, and four of these are capability oriented, referring to administrative and financial ability. By and large, the fact that the predominant number of principles refer to identity, has coined the mode of federalism in Nepal as *ethnic federalism*. Ethnic federalism, however, is slightly misleading as some of the principles adhere to the wider notion of *identity* rather than *ethnicity*. Despite this semantic discrepancy, this study will use the commonly applied term of ethnic federalism to denote the federalism proposed in Nepal.

Interpretation of the nine principles ranges, resulting in different parties arguing for a different number of states. This comes largely as a result from the vast cultural diversity that is found in Nepal with its 59 recognized indigenous peoples (IPs).<sup>16</sup> These groups have their separate cultural heritage, language and traditions, and fall under what ILO 169 consider an indigenous group with rights to self-determination. Inevitably, this has led to a

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14 Interview with a community leader working with reconciliation, 10 March 2011, Kathmandu Valley.

15 Interview with a political analyst from an internationally renown NGO, 7 April 2011, Patan; Interview with a parliamentarian representing the royalist party (RPP), 18 March 2011, Kathmandu.

16 Interview with a parliamentarian representing the Maoist party (UCPN-M), 19 April 2011, Kathmandu.

number of groups calling for autonomous states, based merely on identity.<sup>17</sup> Such calls have infected the overall debate by polarizing the identities against each other in a bid to secure what is deemed to be rightfully theirs, and the emergence of identity politics.<sup>18</sup>

Notwithstanding the issue of number of provinces emerges the challenge of drawing of provincial borders. Due to the demographic distribution of many regions, the drawing of borders is today the most infected debate when it comes to regional politics in Nepal.<sup>19</sup> For example, the biggest concentration of any group can be found in the Newari people, historically residing in the Kathmandu Valley.<sup>20</sup> Nevertheless, the Newari population only amounts to 36% in this region, and thus fall far short of an absolute majority. Another example is the proposed Chhetri province – which would secure an autonomous region for the most numerous single identity in Nepal – which would still only amount to 16% of Chhetris in that province.<sup>21</sup> In fact, only one region in all of Nepal comes close to encompassing an ethnic group to the extent that that group reaches and absolute majority in the province. Thus, the spread out nature of the various IPs makes it impossible to create a federal state that can adequately take into account demands based on ethnic identity, and make the drawing of borders intricately difficult and politically sensitive.

Despite the difficulties in agreeing on the number of provinces and the drawing of borders, the most commonly accepted proposition to ethnic federalism exists of 14 provinces drawn up in accordance with Figure 1 below. This is by no means an agreed upon federal structure, but is by and large what a majority of serious proponents of federalism and experts deem would be reasonable and sustainable.<sup>22</sup> This said, it does not address the Madhesi minimalist demand of a unified Madhesi province on the southern border to India, nor does it reflect the royalist party, RPP's, demands of the Kathmandu province (Bagmati province in Figure 1) having a border with India. Thus, significant political obstacles remain before this, or any other option, can be adopted.

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17 Interview with a political analyst from an internationally renown NGO, 7 April 2011, Patan.

18 See International Crisis Group: “Nepal: Identity Politics and Federalism”, Asia Report No. 199, 13 January 2011.

19 Interview with senior representative from UML, 25 March 2011, Kathmandu; Interview with senior representative from Maoist party (UCPN-M), 19 April 2011, Kathmandu.

20 This paper will not seek to explain the incredibly complex caste system, but for a bit more information on this, please refer to footnote 20.

21 Interview with a parliamentarian representing the Maoist party (UCPN-M), 19 April 2011, Kathmandu; Interview with senior representative from UML, 25 March 2011, Kathmandu.

22 Interview with a political analyst from an internationally renown NGO, 7 April 2011, Patan.; Interview with a parliamentarian representing the royalist party (RPP), 18 March 2011, Kathmandu; Interview with a representative from the donor community, 14 April 2011, Kathmandu.

Figure 1: Proposed Federal Structure in Nepal



Source: Basic Operational Guidelines Secretariat

What has also become a highly contested issue is the notion of “prime rights”. Prime rights is a demand raised by the Limbus in the eastern parts of the country who are strong proponents of a Limbuwan state.<sup>23</sup> Prime rights essentially means guaranteeing superior rights (in particular access to political office and influence) of certain ethnicities or identity-based groups over others in a given region or province. Prime rights is seen as a means of balancing the perceived gross injustices of the past against certain ethnicities who fear that they will be marginalized even in a federal system without institutional and legal mechanisms to prevent it.<sup>24</sup> This issue is something that other ethnic groups have latched on to, but has not yet gained political momentum in Kathmandu, which is in general wary of taking steps to ensure prime rights for some ethnicities, since it essentially would be an implicit acknowledgement of past transgressions.<sup>25</sup>

23 Representative from Nepali Congress, 11 April 2011, Kathmandu; Interview with a political analyst from a Nepali organization, 29 April 2011, Kathmandu.

24 Interview with a community leader working with reconciliation, 10 March 2011, Kathmandu Valley; Interview with a political analyst from a Nepali organization, 29 April 2011, Kathmandu.

25 Interview with a community leader working with reconciliation, 10 March 2011, Kathmandu Valley; Interview with a political analyst from a Nepali organization, 29 April 2011, Kathmandu; Interview with a representative from a donor organization working with political issues, 7 March 2011, Patan.

## ***Opposition to the Idea of Ethnic Federalism***

Although the notion of ethnic federalism in Nepal is largely a popular one, there is opposition towards such a change. In particular, some of the military and far right political parties are openly opposed to federalism and have argued for the use of a referendum to let the people themselves decide. However, the influence of these forces is minimal in comparison to the larger political elite, and can therefore not be seen as a significant obstacle towards adopting a federal state along ethnic lines.

What serves as a much more formidable problem for proponents of ethnic federalism are the upper castes of the Brahmin and Chhetris. These castes have historically enjoyed a comfortable place on the top of the ethnic hierarchy, and have dominated the political elites for decades.<sup>26</sup> Ethnic federalism would likely threaten this customary dominance, since a federal state based on ethnicity would no longer precipitate these castes controlling power throughout the country, but would instead facilitate an even distribution of access to power amongst ethnic groups. So far, these castes have been largely served by the Maoist

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<sup>26</sup> A brief note is necessary here to attempt to outline a rough understanding of the very complex Nepali caste system. Information in this footnote has been collated from formal interviews with two parliamentarians, one civil society actor, and one religious leader as well as from informal discussions with numerous other actors. The Brahmins and the Chhetris are the top two castes, and compose the top tier group in the caste system. Despite not being geographically concentrated, Chhetris are the dominant caste group in Nepal. Brahmins are the second most populous caste in the country. The second tier of the caste system is known as Indigenous Peoples (IPs), and is constituted by 59 different caste groups. Of these, the Magar is the most populous and “ranks” as the highest IP caste. The Magar population is spread throughout Nepal, with a clear concentration in the Western regions around the districts of Myagdi, Rukum and Jajarkot. Other prominent groups that belong to the IP's are Gurung, Madhes, Tarou, and Limbu. Madhesis are almost exclusively geographically located in the Terai region east of Chitwan. This group has traditionally played an important role in national politics due to their strategic location along the Indian border, enabling them to exert control over access to goods coming into the capital via the land route. The Tarou is the second dominant group in the Terai, inhabiting the lower lands west of Chitwan. Historically, the Tarou have been severely suppressed and discriminated against, but do not have, unlike the Madhesis, the ability to (whether violently or non-violently) exert influence over national politics. This is partly due to their less advantageous geographic location, and partly due to the pacificity of the Tarou peoples. It is important to understand, that the Tarou and Madhesi peoples share a lot with Indian culture, and that the political border between Nepal and India is just that – only a political division of the two countries. Apart from that, these castes share much with Indian culture. The Limbus are also fairly secluded in the eastern part of Nepal around the districts of Therhathum and Panchthar. Along with the Madhesis, the Limbus are one of the driving forces for ethnic federalism, proposing a Limbuwan state in the eastern region. This proposal, however, clashes with the Madhes region, and where to draw the border between these two ethnicities is a disputed and highly infected question. The final caste tier are the Dalits, or the “Untouchables”. These are historically the most discriminated against. Today, Dalits are still severely marginalized in Nepali society, but there is a trend amongst the younger, urban and educated populations to increasingly accept Dalits. However, in the countryside, the lives of these people still remain difficult due to the injustices and prejudices brought upon them. The Dalits predominantly inhabit the Far-Western districts of Acham, Doti and Bajura.

inability to stick to their ideals and reform the country in ways that they strived to before coming to power.<sup>27</sup> In other words, the political stalemate between the three largest parties (Maoists, Nepali Congress, UML) have resulted in a lack of reforms in the country, and has impeded the ability to facilitate access to power to the ethnic minorities in the country that have historically been discriminated against. Moving ahead with such reforms as ethnic federalism would inevitably shift historical ethnic power balances and may upset those who have, and still do, enjoy political influence at the top of Nepali society.

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<sup>27</sup> Interview with a political analyst from a Nepali organization, 29 April 2011, Kathmandu; Interview with a political analyst from an internationally renowned NGO, 7 April 2011, Patan; Interview with a representative from a donor organization working with political issues, 7 March 2011, Patan.

## ***ANALYSIS: ETHNIC FEDERALISM AND PROSPECTS FOR PEACE***

At the time of interviewing, the constitution writing process was in full gear, and was scheduled to be completed by May 28<sup>th</sup> 2011. This did not occur, and the deadline was extended by three plus three months setting the new deadline to end of August 2011, with a possibility of extending it another three months. By many accounts, the constitution that will come out of this process is likely to be a bare-boned blueprint, lacking details on how the federalist state will be structured.

Despite the fact that details are still lacking, analysis will be proffered here to discern the principles of ethnic federalism in Nepal, and the implications of these principles on peace and stability in the country.

### ***Inductive Analysis***

To better understand the context, an inductive analysis will highlight some key aspects and implications connected to federalism, peace and stability. This section draws on information gathered from various interviews, which is difficult to categorize into the theoretical framework due to its specificity and contextual nature. In what follows, an analysis will be presented on a political, an ethnic, an international and regional, and a gender-oriented basis.

### ***Political Implications***

Backtracking on federalism seems to be impossible due to the political costs that such an unpopular move would inevitably incur.<sup>28</sup> Nevertheless, the Maoist leadership in Kathmandu – the ones who introduced the federalist idea into mainstream politics in 2007 – are lukewarm about moving ahead with federalization along ethnic lines.<sup>29</sup> There is hesitation across party lines, and some are suggesting that this change of heart will lead to

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<sup>28</sup> International Crisis Group: “Nepal: Identity Politics and Federalism”, Asia Report No. 199, 13 January 2011.

<sup>29</sup> Interview with a political analyst from an internationally renown NGO, 7 April 2011, Patan; Interview with a parliamentarian representing the royalist party (RPP), 18 March 2011, Kathmandu.

a stalling process. Overall, this is good news, since it will give the country the time it needs to work out the details and come up with a comprehensive plan for implementation. On the other hand, it runs the severe risk of upsetting certain groups, like the Madhesis, who may take action into their own hands. A possible early indicator of this risk is the (previously unthinkable) invitation of four Madhesi leaders to New Delhi in mid-March 2011, for talks with the Indian government.

Delaying the process is also no guarantee for the introduction of a more nuanced political debate focused on the implementation of ethnic federalism. The political stance on the issue has been eerily silent, with no suggestions on how to deal with fiscal redistribution or judicial decentralization which are seen as massive obstacles in the country. For example, since many ethnic populations have traditional and informal ways of dealing with justice, it is likely that the different federalist provinces will differ widely in their judicial processes and institutions.<sup>30</sup> How to merge the judiciary on a national level then becomes much more difficult. Moreover, there is to date no fiscal redistribution policy – an absolute necessity if the federalist state is expected to function. Considering the dependence of the Nepali economy on tourism, the importance of trade with India, and the vast amounts of hydroelectric potential in the country (second in the world only to Brazil), federalism is destined to fail without a comprehensive fiscal redistribution policy.<sup>31</sup> Without it, the already most underdeveloped provinces in the west risk not only geographic and political seclusion, but also further impoverishment and strife.

### *Ethnic Implications*

The single biggest threat of federalism to peace is suggested by many as being the issue of prime rights - the superior rights of certain ethnicities or identity-based groups over others in a given region or state. However, as previously noted, the distribution of ethnic identities render no single group an absolute majority in any proposed province. As such, the issue of prime rights would effectively guarantee ethnic minority governments on provincial level, but worse yet, it would institutionalize and legalize discrimination against other groups. This highly undemocratic suggestion risks severely upsetting ethnic power

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<sup>30</sup> Interview with a scholar representative from Kathmandu University, 13 March 2011, Kathmandu; Interview with a religious and spiritual leader, 23 March 2011, Kathmandu Valley.

<sup>31</sup> Interview with a representative from a donor organization working with political issues, 7 March 2011, Patan; Interview with a political analyst from an internationally renown NGO, 7 April 2011, Patan.

relations on provincial level, increase ethnic tension, and effectively decentralizes the historical discrimination of rural populations from the nation's capital to the provinces. The issue of prime rights, therefore cannot in any way be seen as furthering peace and stability in the country, but rather works to exacerbate interethnic tension.

A general challenge that ethnic federalization will have to deal with is the previously mentioned inevitable shift of power between identities. For example, the area around Kathmandu is predominantly Tamang, and the Tamang have traditionally been kept on a close leash by the political elite in Kathmandu in order to prevent a civil disturbance or uprising in the capital.<sup>32</sup> This has only been possible due to the geographic proximity of this group, and its relatively homogenous enclosure of the capital. This has not been the case for the Madhesis in the south, who have the advantage of sitting on the main trade route to India. However, an ethnically federal state would, in essence, create a Tamang border around the capital, enabling this group to exercise the same coercive powers as the Madhesis have.<sup>33</sup> Resultantly, ethnic federalism would create a shift in the balance of power, not from the Madhesi to the Tamang, but from Kathmandu to the Tamang, putting the capital in a vulnerable position against an ethnic group that the capital has historically oppressed.

Finally, the drawing of borders remains highly complicated and an ethnically polarized issue with long-term implications beyond a simple demarcation plan. For example, the minimalist demand of the Madhes of horizontally drawn regions in the Terai to encompass their homogeneity within their province stands in stark contrast to the royalist party's demand for Kathmandu's state border with India to relieve it from a vulnerable position vis-a-vis the Madhesis. Neither of these options have been taken into account in the currently most commonly accepted proposal for redrawing the map (see Figure 1). The fact that the Madhesis have long had federalism on their agenda and that they have bargaining leverage over Kathmandu, has raised fears about a violent Madhesi response to this proposal, should its implementation begin. Ultimately, the most viable option of ethnic federalism is utterly insufficient in addressing the demands of the ethnic group that have for half a century vigorously advocated for it. Inevitably, such an option would spur

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<sup>32</sup> Interview with a representative from the donor community, 14 April 2011, Kathmandu; Interview with a senior representative of the Maoist party (UCPN-M), 19 April 2011, Kathmandu; Interview with a scholar representative from Kathmandu University, 13 March 2011, Kathmandu.

<sup>33</sup> The Madhesis enjoy unproportional coercive power vis-a-vis Kathmandu due to their geographical positioning along the trade route with Nepal's biggest trading partner, India.

regional grievances and may exacerbate relations between the regional and national levels.

### *International and Regional Dimensions*

The regional hegemony to the south of Nepal, India, also presents a complicating factor. India sees Nepal as its sphere of influence, and has historically involved itself in internal Nepali politics for its own national interest.<sup>34</sup> In particular, the Indian stance towards the Maoists is less than friendly, stemming from fears that a strong Maoist movement in Nepal would dissipate into Maoist-supporting Indian provinces, and exacerbating India's problems with its growing Maoist movement in the northeast<sup>35</sup> Subsequently, India has attempted to establish stability along the border to Nepal. One such attempt is the March 2011 visit of four high-ranking officials from the Madhesi regional party to New Delhi to consult top Indian leaders.<sup>36</sup> Whether this meeting was to discuss Madhesi violence and secessionist steps to force Kathmandu to concede on federalism, or whether it was a move with Nepal's stability and unity at heart is difficult to know, but the very act of inviting regional political parties that have strong ties to Delhi for secret discussions does not send positive signals about India's intentions.

The United Nations and India also have a complicated past in Nepal. As part of the Comprehensive Peace Agreement, the United Nations Mission in Nepal (UNMIN) was established to oversee the disarmament of the irregular Maoist forces and pave the way for a constitution process. After several extensions to UNMIN's mandate, the political parties felt a certain discontent that the mission had not fulfilled its objectives.<sup>37</sup> Coupled with this discontent was pressure from India. Regarding Nepal as its sphere of influence and reluctant towards having a strong UN presence close to the disputed area of Kashmir, India pushed for both UNMIN and OHCHR to scale down its presence.<sup>38</sup> UNMIN officially departed in January 2011, leaving a void of political influence to be filled by India, and as

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34 International Crisis Group: "Nepal's Fitful Peace Process", Asia Report No. 120, 7 April 2011.

35 Interview with a senior representative of the Maoist party (UCPN-M), 19 April 2011, Kathmandu; Interview with a scholar representative from Kathmandu University, 13 March 2011, Kathmandu.

36 Interview with a senior representative of the Maoist party (UCPN-M), 19 April 2011, Kathmandu; Interview with a scholar representative from Kathmandu University, 13 March 2011, Kathmandu.

37 Interview with a senior representative of the Maoist party (UCPN-M), 19 April 2011, Kathmandu; Political analyst from an internationally renowned NGO, 7 April 2011, Patan; Representative from Nepali Congress, 11 April 2011, Kathmandu.

38 Representative from the donor community, 14 April 2011, Kathmandu; Political analyst from a Nepali organization, 29 April 2011, Kathmandu.

such, Indian interests in Nepal plays a key role in the prospects for federalization to end with peace and stability. This influence is particularly concerning when it comes at the risk of fragmentation of the Nepali state as a result of secessionism along the border to India – an event that may or may not be in Indian interests.

### *Gender Dimensions*

The role of women and the implications of ethnic federalism on women deserves a separate analysis altogether. Unfortunately, such dimensions are oftentimes excluded from theoretical frameworks, when they serve as fundamental principles of development on the ground, and in particular in post-conflict contexts. A brief analysis is proffered here to highlight the implications of ethnic federalism on women and women's participation in the peace process and its implications for peace and stability.

The Comprehensive Peace Agreement called for an end to discrimination towards women, and the Ministry of Peace and Reconstruction has adopted work on resolutions 1325 and 1820. Local Peace Committees have been set up on district level and are mandated to implement and advance the peace process. These have a prescribed quota of 33% women seemingly safeguarding women's inclusion in bringing the country back towards peace.<sup>39</sup> A similar quota (32.7%) exists for members of the Constituent Assembly, to ensure women's influence on the constitution-writing process.<sup>40</sup>

Nevertheless, these attempts seem insufficient to ensure women's participation in the post-conflict processes towards peace in the country, as women play marginal roles and have very little influence in the foras in which they are present.<sup>41</sup> For example, when looking at the Constituent Assembly women hold 32.7% of the seats, but a mere 20% of these are literate.<sup>42</sup> The inclusion of illiterate women in such an important forum marginalizes women's influence further, and risks having severe consequences later on down the road. This marginalization holds also for the local peace committees, where women are included

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39 Interview with a civil servant from the Ministry of Peace and Reconstruction, 1 April 2011, Kathmandu. Ministry of Peace and Reconstruction has established the Local Peace Committees to facilitate and oversee implementation of the peace process on grassroots level. These committees are established in 73 of the 75 districts, and are made up of 23 members.

40 Interview with a civil servant from the Ministry of Peace and Reconstruction, 1 April 2011, Kathmandu.

41 Interview with senior representative from the Nepali Women's Commission, 1 April 2011, Kathmandu.

42 Interview with senior representative from the Nepali Women's Commission, 1 April 2011, Kathmandu.

largely as symbolic figures with little influence or voice.<sup>43</sup> Considering the large number of female former combatants (approximately 40%), the inclusion of female participation in political processes in Nepal is an issue that needs acute attention.

Unfortunately, no remedy seems to be in sight. The women's rights movement has been severely impaired by the promotion of identity politics. Prior to the mobilization of ethnic identities as a part of the federalism debate, women's groups constituted a significant civil society force across ethnicities.<sup>44</sup> This force fought for women's rights and issues irrespective of ethnicity. With the introduction of identity politics, the women's movement has been fragmented along ethnic lines, rendering this movement much less influential than in previous years.<sup>45</sup> Women identify themselves first in accordance with ethnicity and secondly as a woman, and this has led to disputes between women's organizations from different ethnic backgrounds.<sup>46</sup> Such unfortunate side effects of ethnic federalism will hamper the long-term prospects for peace, stability and development in Nepal.

### ***Deductive Analysis***

This section serves to structure the analysis in a more stringent way than the inductive analysis, and enables it to draw on research in the peace and conflict field. This section should be seen as complementary to the inductive analysis.

The deductive analysis will assess the Nepali context based on the four principal findings of Bakke and Wibbels laid out in the theoretical framework at the beginning of this study. These four points are; 1) fiscal decentralization increases the likelihood of ethnic conflict; 2) large national governing parties that exclude minorities increase prospects of ethnic conflict; 3) interregional inequality increases the likelihood of ethnic conflict when groups are ethnically concentrated; 4) increased fiscal transfers from national governments to regional governments decreases the likelihood of ethnic protest when ethnic groups are concentrated.<sup>47</sup>

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43 Interview with senior representative from the Nepali Women's Commission, 1 April 2011, Kathmandu.

44 Interview with senior representative from the Nepali Women's Commission, 1 April 2011, Kathmandu.

45 Interview with senior representative from the Nepali Women's Commission, 1 April 2011, Kathmandu.

46 Interview with senior representative from the Nepali Women's Commission, 1 April 2011, Kathmandu.

47 Bakke, Kristin & Wibbels, Erik (2006): "Diversity, Disparity and Civil Conflict in Federal States", *World Politics* Vol. 59 No. 1.

## *Fiscal Decentralization*

Fiscal decentralization is argued to increase the likelihood of conflict, and as such, its absence from the federalization process can reasonably be expected to increase the prospects of peace and stability. As previously mentioned, there has been substantial critique against the lack of a fiscal redistribution policy in Nepal, taking into account the vast differences in economic opportunity that exist in the country. For example, certain agrarian regions will be able to produce food, others will be able to produce electricity from hydroelectric sources, and yet others will gain huge incomes from tourism in the country. Thus, in order to effectively implement federalism, a fiscal redistribution policy is necessary to allow for equal development of the country as a whole. The exact details of such a redistribution policy are not yet discussed, and much less agreed upon, but one thing seems certain: there will be fiscal decentralization.

It is expected that fiscal decentralization will be necessary in the initial implementation phase of federalism to balance the varying capabilities of the provinces to be financially self-sustaining.<sup>48</sup> As such, it has been suggested that Kathmandu would collect 70% of provincial earnings and redistribute according to needs.<sup>49</sup> It is foreseen that this centralized redistribution system will gradually decrease over time, as all provinces gain economic stability and autonomy.<sup>50</sup> In other words, a gradual shift is foreseen from the currently centralized fiscal system, to a decentralized fiscal system where provinces generate and control their own funds. The outlook for peace and stability is thus gloomy on this point, since the principle of fiscal decentralization seems a priority for many.

## *Large National Parties*

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48 Interview with a scholar representative from Kathmandu University, 13 March 2011, Kathmandu; Interview with a political analyst from a Nepali organization, 29 April 2011, Kathmandu.

49 Interview with senior representative from UML, 25 March 2011, Kathmandu; Representative from Nepali Congress, 11 April 2011, Kathmandu.

50 Interview with senior representative from UML, 25 March 2011, Kathmandu; Interview with a senior representative of the Maoist party (UCPN-M), 19 April 2011, Kathmandu.

The presence of large national parties in power that exclude minorities also increases the prospects for ethnic conflict.<sup>51</sup> A way to mitigate the risk of resumption of conflict is for a large party to have strong party ties across the tiers of government (i.e. from national to regional) as well as strong interethnic connections. In Nepal, several regional parties deviate from this principle. For example, regional Madhesi or Limbu parties are based on a strong ethnic identity but although they serve as dominant regional actors, their national appeal is limited. Thus, these groups seem to exemplify dominant political parties that could seriously jeopardize *regional* peace and stability.

On a national level, however, the major parties are based on political ideology and do not *per se* discriminate on an ethnic basis. These parties also do not advocate for policies particularly discriminating to any ethnic group, but can instead be characterized by their appeal amongst certain socioeconomic groupings, as is common in most democracies. In other words, although there are regional political movements that may be a cause for concern, this concern should not be elevated onto a national level, as the problems seem to be of a regional nature, demarcated by ethnic borders in the south and east of the country.

An issue that is still undecided, but that would have major implications for exclusion of minorities in national party structures is the issue of prime rights. Although these would look different from province to province, it is reasonable to suggest that limiting institutional access to political influence would have similar effects on provincial level as Bakke and Wibbels argue it does on a national level. Thus, the notion of prime rights is something that would significantly stymie peaceful development in Nepal, as it can serve to increase ethnic identity in politics, and by default then generate discrimination (given the presence of prime rights).

### *Interregional Inequalities*

In nations with ethnically concentrated groupings, interregional inequality creates a

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<sup>51</sup> Bakke, Kristin & Wibbels, Erik (2006): "Diversity, Disparity and Civil Conflict in Federal States", *World Politics* Vol. 59 No. 1.

conducive environment to ethnic conflict.<sup>52</sup> Nepal is a nation with daunting interregional inequalities with the four highest income-generating districts responsible for 81% of GNI, whereas the 63 poorest districts cumulatively generate only 6%.<sup>53</sup> Such vast disparities between resources and abilities, invariably serve as a key challenge for any type of federalism in the country, whether ethnic or not. This regional inequality, however, seems to be only partly ethnic. To a large extent, the differences are based on geographic remoteness and limited accessibility, hampering investments and growth. Thus, inequalities are not ethnically concentrated, ameliorating ethnic tension and conflict .

If prime rights were to be introduced into all provinces in Nepal, and its systemic discriminatory implications generate a movement of ethnic groups from one province to the other, these regional inequalities could quickly become ethnic. In other words, if the Limbuwan province favors Limbus through prime rights, and Limbuwan becomes more ethnically homogenous from migrating ethnic groups, it could easily create a situation whereby provincial inequalities become “ethnified”. Resultantly, certain ethnic groups would be disadvantaged based on their province's economic viability. Thus, prime rights could have serious long-term implications for the demographic map of Nepal, and consequently jeopardize peace and stability.

### *Fiscal Transfers*

Fiscal transfers from national level to regional level is important and serve as a conflict mitigating mechanism, as it mandates the central government the task of controlling and distributing monetary resources equally across provincial borders, as opposed to giving provinces the task of collecting tax themselves, which often leads to vast inequalities across regions.<sup>54</sup>

However, it is important to understand that issues of fiscal redistribution is not a key

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52 Bakke, Kristin & Wibbels, Erik (2006): “Diversity, Disparity and Civil Conflict in Federal States”, *World Politics* Vol. 59 No. 1.

53 Aalen, Lovise & Hatlebakk, Magnus (2008): “Ethnic and fiscal federalism in Nepal”, CHR. Michelsen Institute.

54 Bakke, Kristin & Wibbels, Erik (2006): “Diversity, Disparity and Civil Conflict in Federal States”, *World Politics* Vol. 59 No. 1.

priority in the political discourse. This is mainly because the discourse on federalism has not been conducted in a scientific manner, but is instead a heated debate about ethnic discrimination and autonomy. The actual feasibility of federalism has taken a backseat to the principle of self-governance for ethnic groups.

Despite this, in the foreseen fiscal structure, fiscal transfers from national government to provincial government will initially have to be the case for Nepal. Nevertheless, the intention is to decrease these fiscal transfers as the administrative and financial capabilities of the respective provinces is increased and reaches sufficient standards to take control over taxation and allocation of its own revenue.<sup>55</sup> In other words, fiscal transfers are not intended to be the long-term *modus operandi*, but rather a necessary step in granting provinces full autonomy over fiscal collection and appropriation. Ultimately, such a setup serves to decrease the prospects for peace and stability, as it is likely to exaggerate regional inequalities in the medium to long term. This is particularly the case for Nepal, where provinces are at unequal stages of being able to handle fiscal issues, and where the prospects for provincial revenue vary drastically from province to province.

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<sup>55</sup> Interview with senior representative from UML, 25 March 2011, Kathmandu; Interview with a senior representative of the Maoist party (UCPN-M), 19 April 2011, Kathmandu.

## ***CONCLUSIONS***

The inductive and deductive analyses provide somewhat differing views on the role of ethnic federalism and its connection to peace and stability. The inductive analysis raises serious concerns about application of such a structure in the Nepali context, and is unable to indicate any serious benefit from it. The deductive analysis is also skeptical, albeit its points are not as clear-cut. Nepal possesses some of the components that will increase the prospects for peace and stability, particularly in the short term. However, in the medium to long term, and especially on regional level in the east and south, serious concerns are warranted.

Nepal currently weighs some crucial decisions that will have vast ramifications for the future of the country. The way that these decisions are made are just as important as the outcome, which is why it is troubling that the debate as of now is void of arguments based on capability and reason, and is instead filled with emotive, polarized and populist identity-based reasoning. This does not bode well for the Himalayan nation if it is to come to terms with its past without jeopardizing its future.

In coming to terms with its past, it is also important to remember the characteristics of the conflict. The civil war in Nepal was over contested political ideology, but had notable underpinnings of ethnic dimensions, and was largely a war motivated by inequality in the country. The recruitment of personnel and mobilization of armed resistance was made possible by capitalizing on identity and ethnicity. In other words, the conflict essentially was an avenue for oppressed, predominantly rural, populations, who had for long felt marginalized and neglected by Kathmandu, to redress these grievances. With this in mind, ethnic federalism emerges as a mechanism not to deal with the underlying causes of conflict, but actually serves to institutionalize those causes by decentralizing discrimination and interethnic divisions to provincial levels.

This aside, the current state of ethnic federalism is troubling. Unresolved fundamental issues like the number of provinces, drawing of borders, naming of provinces, and the issue of prime rights make it difficult to speculate on the eventual outcome of any federal

state. Nevertheless, the fact that the debate has yet to raise principal issues of fiscal redistribution, ethnic power balances, and women's marginalization are simply too many and too important to allow for an opportunistic outlook on the effect of ethnic federalism. Fundamental issues regarding federalism in Nepal remain to be resolved, giving rise to the question – is ethnic federalism truly warranted? If parties cannot agree on the number of states or how to draw the borders, are the ethnicities so distinct and entrenched as is oftentimes cited in public discourse, or is ethnic federalism a framework attempted to be forced onto an ethnically diverse and disperse population?

If ethnic federalism in Nepal is to work, it will need more than an arbitrary blueprint. It will need a balance between identity politics and development to avoid further conflict; it will need a well-thought through structure for implementation; it will need a commitment to all parties to put peace before politics; it will need to substantively, not merely numerously, engage women; and it will need to seriously reconsider fiscal decentralization and put mechanisms in place to avoid exacerbating already existing interregional inequalities. Without such preconditions, ethnic federalization will only entrench ethnic polarization and identity politics and the prospects for peace and stability will be dimmed. In fact, the debate on ethnic federalism alone seems to have already severely polarized the different groups as they struggle to secure what they deem is rightfully theirs.

Suffice it to say, the proposed form of federalism in Nepal as it stands today, would do little to safeguard peace and stability in the country. Accepting the Royalist Party's demand for a referendum on the issue is an insufficient remedy to the cause, as the “discourse (on federalism in Nepal) has not been based in a scientific manner, but is instead a populist debate entirely focused on promoting one's own ethnic identity.”<sup>56</sup> Ethnic federalism severely risks jeopardizing peace and stability in the country, and will ultimately make things worse before it makes it anything better.

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<sup>56</sup> Interview with senior representative from UML, 25 March 2011, Kathmandu.

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