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LOCAL GOVERNMENTS IN NEPAL: A BRIEF HISTORY AND SOME THOUGHTS ON RECENT DEVELOPMENTS*

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Before discussing the history of local governments in Nepal, it would be useful to define the terminology and clarify the differences between local governments and local governance. Simply put local government is—at least in the Nepali context—a constitutionally established government structure. On the other hand, local governance concerns itself with the way in which local institutions function. The scope of “local governance” is broad. Civil Society organisations, community forest user groups, formal or informal organizations of farmers and so on and so forth are all institutions of local governance and as interesting and engaging a topic it might be what follows below is only a discussion about local governments in Nepal.

Lichhavis, and the Kirats before them, had put in place some institutions that mirror local governments today. These institutions themselves were not autonomous, they were rather akin to a decentralized administrative body. What is

even more interesting was the name of these institutions during the Lichhavi era. Their names had a Kirati origin to them, I would argue that the Kirats had put in place these institutions, not as a locally representative body but a decentralized administrative body which was later given continuation by the Lichhavis. As far as our historical documents suggests there were four kinds of institutions, Kuther—a revenue administration body responsible for three forms of tax collectively called the Trikar¹, Sali—an institution responsible for administration of justice, Lingua—an institution responsible for infrastructure development and Manchok—an institution responsible for recording marriage, divorce etcetera². The Mallas after the Licchavis gave continuation to these institutions, but the formation of new states during the Mallas through secession limited the evolution and functioning of these institutions. What we now call the Baise and Chaubise states, I would argue, was the end of state-ship in Nepal. A state requires three things, first is a defined territory, the second is an army and the third is a currency. Many of these territories that we now call states lacked these three essentials. As a result, these decentralized institutions slowly vanished, save for in a few territories like Kathmandu or the Mithila (Videha).

* The text is an abridged and translated version of the October 2024 edition of Sambaad @ Samriddhi. Sambaad @ Samriddhi is a monthly discussion on contemporary issues held on the last Friday of each month. In this edition, Khemraj Nepal provides a brief account of the history of local governments in Nepal and a succinct analysis of the challenges that local governments face today. The discussion was moderated by Arpita Nepal.

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We know very little about the functioning of these institutions and Nepali history for about 450 years from the time of the Malla Ascent to the beginning of Prithivi Narayan Shah's unification project. There is some inkling of decentralized administrative system in the latter era i.e. post the start of unification project. When Prithivi Narayan Shah started conquering various states, he gave the power of administration over the conquered territory to the one who had lost the territory. His decision was likely motivated by the fact that he did not have an army to spare, in addition the decision would help the loosing king save his own dignity by having the kingdom returned to him albeit with certain conditions. Within this new system of governance, the Shah-Rana Rulers would specify the varying forms and rates of tax that the loosing king may impose and collect. The taxes included Niti Kar—a tax imposed on someone who cohabitated with someone else from a different caste, ShauneFagu Kar—tax imposed on the Nepali month of Shrawan and Falgun to pay for the entertainment of the royal household, Gorduwa Kar—amount paid as gift on the wedding of the female members of the royal household, Magazine Kar—amount paid for the production of military equipment, Chumawan Kar—amount paid as a gift during festivities held at the royal household, Gadi Mubarak Kar—amount paid by the citizens when the king addressed them from the royal throne, and other profession specific taxes like Tiruwa and land tax and tax to be paid by professional groups.

The idea of local governments, at least the implementation of the principle of smaller autonomous units of government starts in 1976 B.S. Then Prime Minister, Chandra Shumsher established the "Botahiti Municipality". What is even more interesting is that it is the first time an "English terminology" was used, perhaps it was the educational status of the Ranas and then Prime Minister that led to the formation of a local government structure with an English nomenclature. The formation of the municipality was somewhat scientific to the extent that it included both an engineer and a people's

representative. To regulate the workings of the municipality a law was made. The state of Nepali record keeping is such that, I cannot discern whether the law was made in the same year or the year after it. Nonetheless, between then and now a century has gone by and in this time frame, local governments in Nepal have gone through their own fair share of evolution.

We had the Village Panchayat Law during the Rana regime, then in 2007 B.S. we replaced it, a year later we formulated the Town Panchayat Law. More laws followed in the years to come but what is worth noting is the outlook that we had. The legislation was never framed within the broader context of differing capacities because of structural factors i.e. ecological zones, connectivity, population composition etcetera. Even today this outlook persists. Take for instance the powers and responsibilities provided by the Local Government Operation Act, 2074; a metropolitan like Kathmandu has the same powers and responsibilities that a municipality in rural Bajhang has. Differing rules are framed for various categories of local governments, but in Nepal such differing rules do not exist, except for the nomenclature of local governments all other functions and responsibilities remain the same. Recall for instance that the rules are the same for a metropolitan like Kathmandu and a Rural Municipality and Bhajang, interestingly however, their areas (sq km) are different. Kathmandu has an area of a mere 50 sq km, while it might have the highest revenue, if it were to spend it on infrastructure its scope would be limited. In fact, in the whole of South Asia Kathmandu is the smallest local government in terms of size. I suspect that this was politically motivated i.e. to have more units of government and positions.

What is worth noting here is that our formal institutions of local governments completely disregard traditional institutions of governance. Take for instance, the Tharu Community. Every year on the first day of the Nepali Month of Magh, the Tharu Community elects one local leader for a period of one year. Even though today we have

formal mechanisms of local representatives, the community elected leader is equally if not more powerful. Such practices are still prevalent in other communities, especially villages to the north of Gandaki river and in Karnali Province. In Karnali, the Dhamis and Jhankris hold significant power. Whatever problems we face today in terms of local government operation is in large parts because the formal institution does not recognise the value of these traditional institutions. Our outlook towards these institutions is also not positive.

Take for instance the traditional institution of feudalism, it is seen as a regressive institution that prevented the development of Nepal. But I also recall an incident from Sri Lanka where the institution of feudalism was used in a somewhat ingenious way. A hamlet—the local word for a village with less than 20 households in Sri Lanka—had diverted the river water for their own use. I inquired about the mechanism of this arrangement. The official there stated that the user committee decides the use of the diverted river. Upon further inquiry the official disclosed that the user committee chairpersonship was granted in perpetuity to the owner of the household at the end of the village, usually a feudal lord. Since the last household would always ensure that the water reached there, all other households would automatically benefit. When I was a Local development officer, I tried instituting a similar arrangement in Rolpa. In one of the villages the arrangement was agreeable to all, in another it was not. The reason for disagreement in the latter village was that the final household belonged to a “Kami”. Our traditional institutions, especially feudal institutions, interact with the caste system, to that end considerations must also be given to the role of the caste system. Regardless, traditional feudal institutions like the Thari, Mukhiya and Jimmuwal were to a certain degree important to the extent that they oversaw important functions like the administration of revenue collection and justice.

Between 2007 and 2017, we made some progress

in local institution development through the Tribhuvan Gram Bikash Program. The program is less talked about, but it introduced cement, agricultural equipment and animal husbandry to villages. Given the political climate, all of this went unnoticed. As the Panchayat system started, we institutionalized the local government practice through the Village Panchayat Act, 2018, Town Panchayat Act, 2019, and the District Panchayat Act, 2020. These developments were a bit more progressive and gave power to the locally elected leaders. Unfortunately, however, these developments never adhered to the suggestions made by several commissions formed on decentralisation. To give you an example in 2020, the “Power Decentralisation Committee’ under the chairmanship of the Bishwa Bandhu Thapa recommended that the District Panchayat have its own police force. It had in fact several recommendations that were deemed too ahead of its time and never implemented. Interestingly, the territory of the village panchayat committee was the most contentious. The Subbas of the Kipat land would claim that the land belonging to them fell under the jurisdiction of a certain village panchayat when in fact it would have been located elsewhere, Rautahat district faced similar problems and up until 2055 BS the problem existed.

Given this historical context, Local governments find it easier to operate today. They have experiences, especially related to governance, that they can borrow from. The same, however, is not true for provincial structures. They do not have any experience to borrow from and given this context, the federal government is still reluctant to devolve power. This lack of experience severely affects the functioning of the local government too. While our constitution gives local government the right to frame laws, it gives the provinces the power to frame rules based on which local governments can formulate their laws. For a few years immediately after the first federal local level elections, local governments could not formulate the laws in the absence of provincial rules for the same.

Despite having this rich history with local government institutions in Nepal, we have so far only decentralised reluctantly. If anyone wishes to know more about local institutions, the Institute of Integrated Development Studies has published three volumes on it, authored by some of the finest local government experts in Nepal. What we find in those volumes are grand plans for decentralization, commission reports that recommend devolution, changes to laws and regulations but what we find in practice however is limited devolution and decentralization.

There are a couple issues that we have encountered so far. First, A local government in Nepal to operate and function properly requires three things—Forests, Land and Water Resources. Regrettably a local government has none of these, or more appropriately it has no power over any of these. They fall on the concurrent list and so far, we have not been able to figure out how to go about matters that fall on the concurrent list.

Second, recall for instance, that I stated that all local government powers and functions are the same regardless of the differences in either capacity or structural endowments. Now take for instance the case of high-rise buildings. As per our current practice, any local government can approve the construction of high-rise buildings. But how do we ascertain if a rural municipality is equipped with undertaking safety inspections or even setting standards.

Third, on paper we have treated all three levels of government as equal. We have even gone so far as to say that the backbone of Nepali federalism is Cooperation, Coexistence and Co-ordination. But there are a couple of provisions in the Constitution itself that have inserted, rather slyly, I would say, that completely undercuts the equal treatment provision. One of these provisions has to do with the fact that the constitution has a provision that states that “No question may be raised in any court as to whether or not the rules framed for the transaction of business of

the government have been observed”. Such a provision, however, does not apply to local government rules of transaction of business. I would argue that it was deliberately put, fearing that local governments might do something that harms the center, and thus judicial avenues must remain open. Fourth and finally, when the boundaries of the local governments were decided, it was politically motivated, to that extent even today there are territorial disputes and these need to be resolved.

Having worked on local government institutionalization for so long, I am reminded of Robert Chambers “Rural Development: Putting the Last First”. The book was written in 1983, and it remains relevant today. Mr Chambers uses the term “Local development Tourism”. I do believe that we are local development tourists in some sense, we live in the center, rush to periphery, collect the data and present them all in a polished report. Whatever problems we have today in terms of local government operation is perhaps because we are “Local Development Tourists”, and we have forgotten to put the last first i.e. bring those from underdeveloped local governments to developed ones. So long as we remain local government tourists, our problems will persist.



Endnotes

- 1 Taxation on agriculture was called Bhag, on animal husbandry was called Bhog and taxation of trade was simply called Kar.
- 2 Manthoks rules were progressive, at least when it came to the treatment of women in society. The rules were such that if a woman was to divorce someone and marry another no tax was to be collected, but taxes would be collected from women during their first marriage.