

Federalism: New Avenue for Nepal's Development Diplomacy

Liladhar Upadhyaya*

Abstract

Nepal has entered into a new governance model under the federal structure. It is a basic format of the new constitution assimilating federalism from its preamble to other relevant articles of the Constitution of Nepal. It is a new system for Nepal, and the nation should focus on enduring the system by rectifying lapses of federalism. It is criticized for being expensive and promoting means of corruption, but it can give positive results if we apply the principles and practices of federalism with due attention. As federalism is the basic guiding principle of the new political and constitutional context, the development diplomacy of the country should steer the path under the federal structure. Nepal's foreign policy is mainly guided by mutual respect territorial integrity and sovereignty; non-interference in each other's internal affairs, respect for mutual equality, non-aggression, and the peaceful settlement of disputes, cooperation for mutual benefit, abiding faith in the Charter of the United Nations and value of world peace. Development diplomacy is also an expansion of these principles and practices for the prosperity of the nation. The ultimate goal of every form of diplomacy is to optimize national interest and promote world peace. Nepal has challenges as well as opportunities to get benefit from the means of development diplomacy under the federal system of governance. This article briefly talks about development diplomacy in the changed context of Nepal.

Introduction

Nepal is in the new context of the federal government against the age-old unitary system of governance. The new course of federal structure is in operation after the promulgation of the federal democratic constitution by the Constituent Assembly in 2015. Article 4 (1) of the Constitution defines Nepal as an independent, indivisible, sovereign, secular, inclusive, democratic, socialism-oriented, and federal democratic republican state (Nepal Law Commission, 2015).

The federal government, provincial governments, and local governments are in operation following the two general elections since the introduction of the new constitution. However, several works need to be done in the area of federalism.

* Mr. Upadhyaya is the Associate Editor of The Rising Nepal English Daily and a Member of NCWA.

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The foreign policy of any country is focused on the protection and promotion of national interest. It is also understood as an extension of the internal policy of a state. Nepal's foreign policy is guided by mutual respect's territorial integrity and sovereignty, non-interference in each other's internal affairs, respect for mutual equality, non-aggression and the peaceful settlement of disputes, cooperation for mutual benefit, abiding faith in the Charter of the United Nations and value of world peace (MOFA, 2023).

The Constitution of Nepal has also set the guiding principles of Nepal's foreign policy. The State shall direct its international relations towards enhancing the dignity of the nation in the world community by maintaining international relations based on sovereign equality while safeguarding freedom, sovereignty, territorial integrity and independence, and the national interest of Nepal (Constitution of Nepal, Article 54, 4). Similarly, the State policy of the Constitution has also fixed the guiding principles of foreign policy. It includes: To conduct an independent foreign policy based on the Charter of the United Nations, non-alignment, principles of *Panchsheel*, international law, and the norms of world peace, taking into consideration of the overall interest of the nation, while remaining active in safeguarding sovereignty, territorial integrity, independence and national interest of Nepal and to review treaties concluded in the past, and make treaties and agreements based on equality and mutual interest (Constitution of Nepal, Article 50).

Development diplomacy in Nepal is mostly fixed by constitutional provisions as well customary practices. The nation has already set the path of a socialism-oriented economy and it needs to generate national capital through diplomatic channels to lead on the path of prosperity.

Methodology

This article is an analytical overview of development diplomacy in the federal context of Nepal. It is entirely focused on a qualitative approach based on secondary textual data. Relevant journal articles, books, and authentic websites are reviewed in course of preparing this article.

Federalism: A New Dimension of Nepal's Development

Federalism is a system of governance, which divides power or rights between the central government and provincial government, in a written constitution divides power between a central government and regional or sub-divisional governments, and they are run through a set of laws in the constitution. The field of government

is divided between a general authority and regional authorities, which are not subordinate to one another, but co-ordinate with each other, notes scholar K. C. Wheare in his book *Federal Government* (Wheare, 1963). In this sense, it is merely a system of governance in which the state power is divided for the development and empowerment of the people. The constitution of the United States of America is considered the first federal constitution while talking about international experience in federalism. The basic principle of American federalism is fixed in the 10th Amendment (ratified in 1791) to the Constitution which states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people" (Congress, 2023).

Federalism and its exercise are new in Nepal. Naturally, it is not away from challenges. One of the major challenges that it is facing is sustaining it in terms of economy and infrastructure. The economic viability of the federal structure is a major challenge in the present context. The concerned authorities should think of sustaining the federal structure besides maintaining reciprocity with the international community regarding development diplomacy. The development diplomacy of Nepal depends on its strengths in terms of governance, transparency, adaptability, democratic posture, and viable infrastructures.

Constitutional Arrangement

There are three categories of federal practices around the world. The first category is called 'coming together or aggregation', under which the federal states remain united together. Russia, the USA, Switzerland, and Australia fall under this category. The second is named 'de-aggregation or holding together' under which the countries change their unitary states into federal ones. Germany, Ethiopia, Nigeria, Belgium, and Spain come under this category. The third is considered a 'mixed federal structure' as it carries the characteristics of both categories of a federal system. Canada and India are examples of the third category (Upadhyaya, 2018).

Amidst these instances, there is no clear-cut idea to judge Nepal's federalism and its category. However, the political parties have divided unitary Nepal into seven provinces based on political consensus without doing detailed research on it. The provincial demarcation was fixed based on districts and geography. There were dissatisfactions among the political parties and people over the demarcation and headquarters of the provinces while forging consensus.

It shall be relevant here to talk about the contribution of the Constituent Assembly (CA), which successfully drafted and promulgated the new constitution. The CA accomplished the historic task after constant efforts lasting for eight years and the dream of promulgating the new constitution through the CA has now materialized

with the promulgation of the new constitution by then President Dr. Ram Baran Yadav on September 20, 2015. The President issued the new constitution a day after it was authenticated by CA Chair Subas Chandra Nembang and endorsed by an overwhelming majority of more than two-thirds members of the CA (Upadhyaya, 2018).

The Bill of the new constitution was also accepted with a more than two-thirds majority on September 16, 2015. Altogether 507 CA members voted for the Bill while 25 lawmakers of the Rastriya Prajatantra Party-Nepal voted against it. Besides CA chairman Nembang, a total of 532 CA members participated in the voting process. Only 57 out of 598 sitting members (the CA had a strength of 601 members) boycotted the voting process. Likewise, 85 percent out of 89 percent of members present in the CA supported the adoption of the new constitution.

The Constitution of Nepal consists of federal ideas and provisions from its preamble to various schedules. The Preamble of the Constitution is as rich as the democratic constitutions around the world. The Preamble of the Constitution states, "Do thereby pass and promulgate this constitution, through the Constituent Assembly, to fulfill the aspirations for sustainable peace, good governance, development, and prosperity through the federal, democratic, republican system of governance" (Nepal Law Commission, 2015).

Regarding the structure of the state, the Constitution states that the main structure of the Federal Democratic Republic of Nepal shall be of three levels namely the Federation, the State, and the Local levels (Constitution of Nepal, Article 56, 1). This is an important Article to define the structure or nature of the state in the new federal context. Before the promulgation of the new Constitution, the state structure was unitarily consisting of 14 zones, 75 districts, and five development regions.

Part 5 of the Constitution has not only provisioned about the state structure but also distributed the state power with the management of different schedules which consists of exclusive and concurrent powers of the federal, provincial, and local levels (Constitution of Nepal, Part- 5). The Constitution has also fixed the provision of exercising residual powers. As per the constitutional provision, the Federation shall have power on any matter not enumerated in the Federal List, State List, List of Local level or Concurrent List or on any matter which is not so specified in the Constitution as to be exercised by any level (Constitution of Nepal, Article, 58).

Similarly, the Constitution has clearly stated the powers relating to finance, and distribution of revenue (Constitution of Nepal, Articles, 59 and 60).

Cooperative Nature of Nepali Federalism

There are various models of federalism in the world. Some federal countries have adopted a competitive model of federalism, while some are following a cooperative model of federalism. Nepal is also exercising a cooperative model of federalism. The Constitution of Nepal has defined the model of federalism. It states that the relations between the federation, states, and local levels shall be based on the principles of cooperation, co-existence, and coordination (Constitution of Nepal, Article, 232).

The words cooperation, co-existence, and coordination are written differently to define the model of Nepali federalism. However, the meanings of these words are interchangeable upholding the spirit of cooperation. For this purpose, the federal government generates resources, prepares plans, and plays the role of facilitation. The provincial or intermediate governments do play the role of cooperation and coordination between and among the three levels of government.

However, the cooperation among and between the multiple levels of government is not absolute. It is necessary to follow certain directives of the federal and local governments to maintain uniformity in the levels of understanding and implementing federalism. Defining the role of the federal government, the Constitution has stated that the Government of Nepal may, directly or through the provincial government, render necessary assistance to, and give necessary directives to, any village executive or municipal executive, under this constitution and the federal law (Constitution of Nepal, Article 232, 8). Citing the example of Germany, expert Ronald L. Watts defines that cooperative federalism contributes to the reduction of conflict and enables coordination (Watts, 2008). In the context of the interdependence of the states in terms of economy and other resources, cooperation among the multiple levels of government is unavoidable (Watts, 2008).

In this way, cooperation has become a necessary element among the federal countries. Without cooperation nationally and internationally, functions and delivery of services to the people shall remain incomplete. So, cooperation among the multiple levels of governments and their relations is the demand for federalism and its implementation in the federal countries, no matter their size in terms of demography and geography.

Development Diplomacy under the Federal Framework

Development diplomacy has different dimensions in the changed context. Of course, it is performed through bilateral, and multilateral activities globally and regionally, and various UN organizations and other global organizations play vital roles to operate development diplomacy (Prescott, 2019). Like other fields of diplomacy, development diplomacy works remain under the framework of

sustainable development. Development diplomacy consists of actions relating to poverty reduction, environment protection, and reduction of inequality or promotion of equitable distribution of power and resources (Prescott, 2019). Defining development diplomacy, Nilima Gulrajani, Emma Mawdsley, and Supriya Roychoudhury, in their report, state that development diplomacy is a specific form of public diplomacy that builds bilateral relations based on activities that are presented as promoting the development and wellbeing of developing countries (Gulrajani, et.al, 2020). Unlike the relations based on hard powers like military assistance, researchers term it as soft power for the development of the state by transferring skills and other resources to the developing states. In this way, it is public diplomacy and it has a long history of promoting a country's soft power, including its ability to obtain desired outcomes through attraction and persuasion rather than coercion or payment (Gulrajani, et.al, 2020).

Countries project their strength, identity, resources, human capital, environment, culture, and so forth to attract foreign investment, assistance, and cooperation for the development of the nation. Reciprocal relations based on equality and equity are core values of development diplomacy.

Nepal, as a federal country, having numerous opportunities for development under the framework of sustainable development should focus on expediting foreign relations by keeping the people and their development on top. However, cooperation between the ruling and non-ruling political parties in the area of development and foreign relations is also a valuable point to materialize the development aspirations of the nation and its people. Against these backdrops, the following points are raised for the implementation of development diplomacy in the context of Nepal.

Prospects of Development Diplomacy

Nepal is in the process of graduating to a developing country from the status of a least developed country. Its unique geopolitics has also created certain prospects to uphold the principles and practices of development diplomacy. The following prospects are discussed hereunder:

a. Capitalization of Diversity of Population

Nepal has unique diversity in terms of population, culture, and tradition. It has over 125 castes and several ethnicities and they are the capital of the nation. There is harmony among the multiple castes and ethnicities. This situation can be the best example for the international community. They can study how unity in diversity is maintained in Nepal. It can also be projected as a component to promote development diplomacy.

b. Utilization of Diversity in Culture and Tradition

As there is diversity in population, the diverse population brings multiple cultures and traditions as the capital of a nation. Diversity in art, culture, and tradition helps promote tourism and other kinds of businesses in the nation with the support of foreign assistance.

c. Utilization of bio-diversity

Nepal is rich in the environment. Its mountainous, hilly, and plain areas bear a unique combination of biodiversity. They need protection having numerous opportunities.

d. Contribution to SDGs

Sustainable development is the prime concern of the present trend of development. Development diplomacy shall be a viable tool to contribute to the global bid for SDGs.

e. Promoting Soft Power

Unlike other coercive powers exercised around the world for diplomacy, it promotes soft power like skill transfer, knowledge development, environmental protection, and so on. Competition among the nation-states for sustainable development shall create a win-win environment for underdeveloped and developing countries.

f. Helps Promote International Peace and Brotherhood

Any form of diplomacy shall have a mission to maintain peace and harmony among the states. Development diplomacy can be used as a tool to promote international peace through means of cooperation and coexistence.

Challenges of Development Diplomacy

Development diplomacy is not free from challenges. Some of the challenges are discussed hereunder:

a. Uniformity in understanding among the political forces

The political forces are in government or opposition seats; they should develop a minimum common understanding in development diplomacy. They should maintain consistency in their foreign policy as a whole and development diplomacy in particular.

b. Geopolitics

Nepal's unique geopolitics is also a major challenge to effectively operating development diplomacy. A landlocked country is suffering from this deficit since its classical era. Maintaining a balance between the immediate neighbors

and the situation abroad is the key challenge as the small Himalayan country is situated in an important geographical location.

c. Lack of infrastructure

Nepal is suffering from a physical infrastructure deficit. It needs proper infrastructure to utilize foreign knowledge, resource, and skills. Proper and timely investment in the development of roads, management of land, and other related ingredients is the key to the implementation of development diplomacy.

d. Lack of human resources and skills

The value of human resources is always high in the area of development diplomacy. This is the era of digitalization and technology-bound development. So, to meet the target of sustainable development, there is a need for investment in human resource development and skill transfer.

e. Strengthening the national economy

A country like Nepal should strengthen its national economy to utilize the agendas of development diplomacy. It should be able to utilize remittances and foreign assistance in the right direction.

Federal Governance: A New Avenue for Development Diplomacy

Nepal has entered into a new era of federal governance. It is a basic format of the new Constitution assimilating it from its preamble to other relevant articles of the Constitution. It is a new system for Nepal and the nation should focus on enduring the system by rectifying its lapses. The federal system is criticized for being expensive, but it can give positive results if we apply the principles and practices of federalism with due attention. Some of the points are discussed hereunder on utilizing federalism for development diplomacy.

a. Developing Relations with Federal Countries

Nepal as a federal country should focus on establishing good relationships with federal countries around the world. Almost 40 percent of the world's people live in the federations (Anderson, 2008). Around 28 countries, which are under a federal structure, shall be a great asset for Nepal to establish relations in line with development diplomacy with new experiences shifting from a unitary system to a federal system of governance.

b. Developing State-to-State Relations

A federal country should focus on developing a relationship with countries around the world based on mutual benefit. They should promote state-to-state level relationships with them to promote development diplomacy.

c. Developing People-to-People Relations

The people-to-people relationship is another component of promoting development diplomacy. It helps extend relations by promoting art, culture, and literature. A nation shall gain prosperity by promoting relationships at the people's level.

d. Exchanging Lessons from the Federal Countries

Exchanging lessons among the federal countries is another point to be raised here. Federal countries like the USA, Germany, South Africa, Australia, and India have their own experiences and they have been practicing the federal system of governance for a long time. Their lessons shall be good tips for a country like Nepal which has adopted the system lately.

e. Promoting Economic Diplomacy

Development diplomacy and economic diplomacy are interchangeable. The promotion of economic diplomacy shall be a solid foundation for development diplomacy. Bilateral and multilateral economic diplomacy does not deviate from the basic principles of development diplomacy. Thus, economic diplomacy should go simultaneously implement the agenda of development diplomacy.

f. Promoting Democratic Culture

Nepal should develop a democratic culture. It shall be difficult to maintain development diplomacy in the absence of democratic culture. Recent components of development diplomacy depend upon core principles of democratic governance. So, the nation should not forget the principles and practices of democratic governance.

g. Transferring Knowledge, Skills, and Resources

Of course, transferring knowledge skills and resources is the essential idea of development diplomacy. Underdeveloped and least-developed countries should be empowered by transferring knowledge, skills, and resources from developed countries. The rich countries must transfer skills and resources for the development of poor countries.

h. Addressing Climate Change Issues

Underdeveloped countries are suffering from the adverse impact of climate change, just because of the activities of developed or industrial countries. They should keep in mind that the people of the countries which are affected by climate change should get due attention in a matter of compensation and subsidy.

Conclusion

Nepal has adopted the federal system of governance to expedite development works. Changing the system from unitary to federal is an achievement in itself, but there are numerous challenges to endure it. Getting prosperity with equitable development is seen as attractive in the slogan. However, the stakeholders should be sincere in implementing the agenda of federalism for the better future of the nation and its people. Federalism, which is implemented in Nepal with the beautiful aim of getting prosperity, can be a viable tool for development diplomacy. Its positive aspects should be implemented and expanded at the state-to-state level and people-to-people levels. It can be implemented not only at the provincial level but also at the local level. All three levels of government can extend their relations by upholding the norms of development diplomacy. The political parties and concerned stakeholders should develop a minimum common understanding of development diplomacy for the benefit of the nation and its people.

References

- Anderson, G. (2008). *Federalism: An Introduction*. Canada: Oxford University Press.
- Gulrajani, N. & et. al. (2020). *The New Development Diplomacy in Middle-Income Countries*. Retrieved February 5, 2023, from ODI Report: https://cdn.odi.org/media/documents/the_new_development_v5.pdf accessed on February 5, 2023.
- MOFA. (2023). *Foreign Policy*. Retrieved January 1, 2023, from MOFA: <https://mofa.gov.np/foreign-policy/>
- Nepal Law Commission. (2015). *Constitution of Nepal*. Kathmandu: NLC.
- Congress (2023). *Constitution*. Retrieved February 5, 2023, from Congress: <https://constitution.congress.gov/constitution/amendment-10>
- Prescott, R. (2019). *Hosting UNCTAD in 2020: Small Countries and Big Stakes*. Retrieved February 5, 2023, from Diplomacy: <https://www.diplomacy.edu/topics/development-diplomacy/>
- Upadhyaya, L. (2018). Federalism Takes Course with the Implementation of the Constitution of Nepal. *Nyayadoot*, 216, 155-160.
- Watts, R. L. (2008). *Comparative Federalism*. London: Queen's University
- Wheare, K. C. (1963). *Federal Government*. London: Oxford University Press.