From Lofty Rhetorics to Workable Politics? The Case of Federalism in Post-War Nepal.

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Acknowledgement

I grew up in a hybrid culture of Hinduism and my own religion. I still remember my grandfather conducting our rituals late at night. Being a child, I was unaware of what he was doing. I then became aware about our democratic rights when *Mass Movement (II)* occurred, followed by Comprehensive Peace Accord beginning the restructuring of the state and slowly securing the rights of indigenous people. Having explained this, I am grateful to my supervisor, Professor Tone Bleie, who inspired me with her intellectual, critical, insightful and motherly guidance.

Conducting research in a post-conflict country is a difficult task as well as institution which have been working and revolving within the frame work of '*Aafno Manche'* one's own. Thus, I am thankful to my Uncle, Mr. Shambhu Rai, for his insightful suggestions and for helping me to conduct research and for showing me how to gain accessibility. Above all, I would like to extend my gratitude to my informants from NC, CPN (UML) and UCPN (M) who gave me their valuable time; especially in the period of political crisis that unfolded during my fieldwork. My sincere gratitude also goes to members of Kirat Yakthung Chumlung.

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Finally, I would like to thank my classmates of 2009, CPS and my Norwegian well-wishers for a wonderful time throughout my studies and stay in Tromsø.

Abstract

This thesis investigates federalism (state restructuring) through the empirical analysis of the views held on federalism by a few members of the major political parties in Nepal. A decade long conflict was ended when Comprehensive Peace Accord was agreed in 2006. The terms of CPA and the interim constitution became a source of political argument for Nepal's leaders; controlled and over represented by High Caste backgrounds in different state mechanisms. The issue of democratic restructuring (defining/categorizing the federal model) was hotly contested and debated, and it resulted in the dissolution of historic CA where members from various backgrounds were represented. The dissolution has concluded in constitutional and political dead lock in Nepal. This study examines the views of a few important political actors on this issue, along with their policies on Natural Resource Management and tax with the help of in-depth interviews and an investigation of their parties' manifestos and in context of research literature. Through the course of this research, I found that Nepalese political institutions and leaders have to soul searching practice in order to establish a suitable inclusive democracy. However, discussing federalism (state restructuring) and power decentralization is a bipolar issue.

Social change is an inevitable process, but culture, tradition, history and identity cannot be denied. Such can be reconciled with democratic inclusive nation building – forming one common identity with national solidarity and secularism that is connected with state sovereignty. The current demand for group right and self-rule among ethnicity base federal units may trigger conflict and overlooks the democratic rights to equal participation. The right to participation and decision-making is the right of any individual and community or group according to the theory of democracy. While advocating for groups rights from ethnic organizations and activist, would exclude the right to participation of non-ethnic minorities. In other word, their right to participation would be hindered. Such advocacy would worsen the situation for people who have been living together for a long time in the same communities, VDC and watersheds. Therefore group rights have to be balanced with individual citizenship rights in order to build up a strong sense of nationalism that keeps sovereignty intact.

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List of Abbreviations

CPA	Comprehensive Peace Accord
CPN (M)	Communist Party Nepal Maoist
CPN (UML)	Communist Party of Nepal – United Marxist and Leninist
FDNF	Federal Democratic National Forum
FLSC (L)	Federal Limbuwan State Council (Lingden)
HCP	High Caste People
IPs	Indigenous Peoples
KYC	Kirat Yakthung Chamlung
LEAS	Limbuwan Ethnic Autonomous State
LG	Local Governance
LGSA	Local Self Governance Act.
LV	Limbuwan Volunteers
NC	Nepali Congress
NCG	National Consensus Government
NEFIN	Federation of Indigenous Nationalities of Nepal.
NFDIN	National Foundation for Development of Indigenous Nationalities.
NPC	National Planning Commission
PM	Prime Minister
RNA	Royal Nepalese Army
SPA	Seven Party Alliances
STC	State Restructuring Committee
UCPN (M)	United Communist Party Nepal (Maoist)
UMDF	United Democratic Madeshi Front
VDC	Village Development Committee.

Dedication

To my late mother with love, respect and admiration.

CHAPTER ONE

1.1 Introduction to the Topic

Federalism is a multi-facetted topic that can be studied from a theoretical viewpoint regarding how one governs a country and distributes and redistributes power. As an academic subject it can be studied through different disciplinary and interdisciplinary theoretical lenses. Being a supporter of the indigenous movement, I approach this topic as a student of peace and conflict transformation. Therefore, I understand the term 'Federalism' as reforming or changing a governance system.

My interest in researching and writing a master's thesis on the topic of federalism developed because of the social and political movement in my home country of Nepal. Being a member of the Limbu community, one of Nepal's several indigenous groups, I grew up in hybrid culture of Hinduism and our own Kirat religion. Growing up in the late 1970s and 1980s under the autocratic monarch-led regime, to celebrate my own culture, traditions, language, history and identity was contentious. When my family did so, as other Limbu families and indeed people from other ethnic groups, we were considered communal. In the early 1990s, many people of ethnic backgrounds came together to form a national indigenous (ethnic) movement, the *Adivasi Janajati Movement*. An umbrella organization called Nepal Federation of Indigenous Nationalities NEFEN[1] was formally created in 1991 as NEFIN. Only a few of the people involved were my good friends and acquaintances. Like myself, they were inspired by the recent global indigenous movement (1995-2004). Both the massive mobilization of this movement and pressure from Nepal's influential donor community lead the former Nepalese government to ratify the ILO-Convention 169 in 2007. Since this period, by use of various democratic means, NEFIN has been fighting for full constitutional recognition of group-rights, based on Nepal's responsibility as a state party to the ILO Convention 169 and the Convention against Racial Discrimination. In addition to this, Nepal was one of the very few Asian countries that voted in favor of the UN Declaration on the Rights of Indigenous Peoples and ratified the Convention on

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[1] NEFEN-Nepal Federation of Nationalities – *Nepal Janajati Mahasangh* in Nepalese language was informally created in 1990 by eight member organizations after the promulgation of the constitution of Nepal in 1990. It speaks for the rights of indigenous people, and is strongly anti-Hindu and anti-Brahman in its ideology. It fights Brahman domination of state machinery and seeks to undo the Hindu influence on its member groups.

Biological Diversity in 1992.The fact that such moves from the government took place after considerable political pressure made young Nepalese like myself more optimistic; we hoped that our government and political leaders had become serious in protecting minority and indigenous rights. But as the years passed, and the political struggle became tougher and even lead to a decade of civil war (1996-2006) it became increasingly evident that the ratified international conventions remained on paper and that the political establishment had no intention to implement fully but by their lofty promises.

During the increasingly bloody and devastating Peoples' War, the political rhetoric of the Maoist Party and its military wing and local militias focused on ethnic discrimination and they were able to recruit a huge number of young women and men as guerrillas from ethnic groups or nationalities, especially from the hilly regions of Nepal. During the Peoples' War, NEFIN remained a civil society actor that also fought through constitutional means for minority and indigenous rights, but it was also overall quite positive to the Maoist's armed revolutionary movement. When the Peoples' War ended in 2006, and a new political era began, NEFIN was at the forefront of social and political actors that called for full implementation of the above mentioned conventions and declarations in the ongoing constitutional process.

At this juncture from war to peace, some very important political shifts had occurred: firstly, the agenda of federalism, before mainly an agenda of the communist parties, had been taken up by the other mainstream political parties and was incorporated into party manifestos and day-to-day politics. Secondly, Nepal's new political landscape was a mix of parliamentary politics and street politics where mass demonstrations and strikes continued to play an important role. In this new situation NEFIN became a central civil society actor, determined to ensure the political rights of minorities and indigenous groups in the new constitution, proportional representation in state mechanisms and apparatus, cultural rights (including language rights) as well as sharing the state's resources and procuring identity-based federalism. Its prime aim and concern in the past six years since the peace truce has been to establish a secular federal republic where Nepal's diverse ethnic, linguistic, cultural, religious and territorial indigenous nationalities are treated on an equal basis[2]. Most of the leading activists from this organization actively advocate for

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[2]http://www.nefin.org.np/list/NEFIN%E2%80%99s-Introduction-with-its-Vision-and-Mission---/4/97/13

historical identity-based federalism and right to autonomy (self-rule). The latter claim is inspired by and anchored in the already mentioned international human rights treaties. Because of NEFIN and one other ethnic-focused organization, Kirat Yakthung Chumlung (KYC), ethnic issues have constantly been raised in discourse, and to a degree that has triggered various counter reactions from different claimant groups. I see the dilemmas and inherent contradictions of this.

Returning to my own interest in studying minority and indigenous rights in Nepal, I recall a formative episode. I remember my uncle (who would later help me in this research) once questioned the inclusion of *Raute* and *Chepang* indigenous groups in policy making during that time. He raised the important question of inclusion and the difficulties of including such marginalized indigenous groups at the policy level in the existing polity of Nepal. Indeed, his challenging question was break point for me, raising my desire for better scholarly knowledge about the Nepalese polity and political system. I could not initially understand my uncle's views. However, I started studying articles written by different Nepalese scholars (many of them are of ethnic origin) on the state's discrimination against indigenous nationalities and the struggle for political rights and identity. This motivated me to choose federalism as the topic of my thesis. To sum up, the democratic mass movements of 1990 and 2006 (or *Mass Movement I and II)* motivated me to study indigenous rights issues as expressed by *Adivasi Janajati Movement* (Indigenous Movement) in Nepal. In this context the issue of federalism and political local autonomy within the structure of the new Nepalese nation state is very central. After I became a master's student at Centre for Peace Study, I went through quite a challenging process of starting to examine from a critical academic lens the kinds of assumptions that *Adivasi Janajati Movement* in Nepal has simply taken for granted and given quite little emphasis. I used to have frequent discussions with my supervisor Professor Tone Bleie on the issue of federalism and its symbolic and governance functions. I used to insist on an exclusive focus on group rights and identity-based federalism as the solution to many ills of injustice in Nepal. However, my supervisor asked me what use there is in writing a thesis on federalism in Nepal, if you know the answer before you have written and concluded your study? While working on this thesis, I have come to value Mukta Singh Tamang's argument that federalism should be understood as a means (rather than an end in itself) towards making Nepal a more democratic and inclusive state[3].

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[3] http://indigenouspeoplesissues.com/attachments/article/5890/Adivasi_Janajati.pdf

Before I outline in detail the research objectives and research questions that have grown out of my own gradual interest in engaging critically with the federalism debate, I shall provide some more contextual information, which will introduce readers to the theoretical and empirical discussion and analysis in the following chapters.

1.2 Some Contextual Highlights

Existing or perceived injustices and inequalities are often driving factors in any form of political conflict. The Communist Party Nepal (Maoist) was successful in capitalizing on the experience of a non-inclusive state, growing injustices and widespread misery of indigenous peoples, such as the Madeshi[4], Dalits, and women, and launched an armed conflict called the People's War in 1996. In the following years, the ruling parties dismissed the Peoples' War as a small-scale insurgency, a problem of law and order only. But the conflict grew bigger and spread from its original core areas in the Mid-Western Region to encompass most rural districts from 2000-2001 onward. Even the newly established electoral democracy was at risk. Finally, the ruling parties took the decision to send an army to fight and disarm the Maoists in 2001. However, the late king Birendra was unwilling to mobilize an army (Royal Nepal Army) against his own citizens. King Birendra and his family were massacred in 2001. Tone Bleie argues that internal family strife between clans was the major reason of the fall of the so-called Rana Regime[5] in 1950, and that similar reasons could be behind which is still not very clear circumstances that led to the murders of most of the royal family in 2001, which aggravated the already destabilized security situation (Bleie, 2007: 88). The surviving brother of the murdered King, Gyanendra, was then enthroned in 2001, and he assumed full political power in 2005 through what was essentially a bloodless coup by sacking the democratically elected Prime Minister being unable to carry out election due to the ongoing Maoist rebellion. Common Nepalese welcomed the initial phase of

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[4] Nepal is divided into 3 geographical regions 1) Himalaya 2) Plain (Terai) Madesh 3) Hills. People from Terai are normally called Madeshis. They are also called '*Dhotis*', which is a derogatory term. Nepal's hierarchical caste system includes; 1) Brahman (Priests) 2) Chhetri (Warriors) 3) Vaisya (Labours, Businessman) 4) Sudras (Indigenous People) –all these four are so-called touchable, but the 5) Dalits are untouchable (blacksmiths, cobblers, tailors etc). For more information see http://www.sacred-texts.com/hin/manu.htm

[5] The Rana Regime ruled the Kingdom of Nepal from 1846 to 1951, reduced the Shah Monarch to a figurehead and made the Rana Prime Minister and other government positions hereditary.

direct monarchial rule. However, the political parties were in consensus about fighting the Monarch's direct autocratic rule. The Seven Party Alliances[6] shook hands with the Maoists and started agitation for their demand for handing over sovereign power to the people. However, the joint struggle of 19 days in April 2006 *(Mass Movement II)* by the Seven Party Alliances and Communist Party Nepal (Maoist) compelled him to step down and reinstate parliament. The reinstated parliament endorsed a number of historical decisions. The state was declared secular and constitutional control was transferred to the reinstated parliament (Bleie, 2007: 89). It also took the important decision to go for the CA election to ensure participation of all sections of society in state mechanisms. Moreover there were difficult compromises to decide over the future of monarchy, interim constitution, Constitutional Assembly (CA) and peace building. Despite having to finalize such tough compromises, the forces created by the international community and major negotiators resulted in the Comprehensive Peace Accord in 2006, November (Bleie, 2007: 90). This formally ended the decade long People's War and CPN (M) became a mainstream party. The party won the first national election in 2008, a month after CA abolished 240 years of monarchy.

I have already briefly mentioned the *Adivasi Janajati Movement*'s contribution to strengthening democracy in Nepal and would like to elaborate on this some more and also briefly describe how the mainstream political parties responded to the political agenda of rights-based inclusion and federalism as a solution to redistributing power in Nepal. Nepal was declared a federal structure by the amendment to the interim constitution of 2007 in response to the agitation[7]. Nevertheless, the political demand for federalism in Nepal has come from the aspiration to have self-governance in regions outside of capital city. Federalism and (regional) decentralization has become a contentious issue of political debate at the national level as well as within political parties in Nepal. The United Communist Party Nepal (Maoist) advocates for an ethnic and administrative federalism while political parties like Rastriya Janamorcha, a minority party, are

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[6] Seven Party Alliances: The political Parties of Nepal that decided to restore democracy headed by NC leader Giraja Parasad Koirala, including Nepali Congress, Nepali Congress (Democratic), Communist Party of Nepal (Unified Marxist-Leninist),Nepal Workers and Peasants Party (*Nepal MajdurKisan Party*), Nepal Goodwill Party (Anandi Devi) (*Nepal Sadbhawana Party*) and United Left Front, People's Front.
[7] http://indigenouspeoplesissues.com/attachments/article/5890/Adivasi_Janajati.pdf

openly opposed to federalism. There has been a consensus and commitments expressed at the political level in favor of federalism before and after the constitution assembly elections, as well as in parties' manifestos and there have been agreements with indigenous (party) peoples or ethnicity based federal units[8]. Although the state has taken some steps to fulfilling the demands of indigenous people, it has become ambivalent at the same time. The ratification of ILO 169 has become a matter of debate in the political arena in Nepal. The government has already drafted a national action plan with the coordination of government authorities, NEFIN and National Foundation for Development of Indigenous Nationalities, but it has not yet opened up after the government led by PM *Prachand* of UCPN (M). As time passed by, the federalism and state restructuring debate was moved to the forefront of parliamentarian politics by mainstream political parties, which disagreed on the basics of federal solutions and on what principles borders should be drawn. As I will outline greater detail later, some wanted 14 identity-based (multi-ethnic) units, while others demanded 6 (or 7) (mono-ethnic) regional entities. NEFIN played a vital role in pressuring indigenous CA members by forming indigenous Caucus to incorporate the rights of indigenous people in the new constitution. Federalism became a politically agreed agenda, but it polarized the positions of the political parties and made the negotiations in the CA confrontational.

1.3 The Impact of the Indigenous Movement and Counterclaims in the Post-War Context

The indigenous movement in Nepal has played a vital role in the transformation of the state from a Hindu state to secular one and from an autocratic state to a democratic inclusive state as well as from a unitary state to a federal state (new Nepal) after the *Mass movement II*. The movement has been able to draw national attention to discourses of exclusion and inclusion. It gained more attention when the government included it in its 10th Plan and donor agencies prioritized in their country plan as well as established a different governing body called National Foundation of Development of Indigenous Nationalities (NFDIN) in 2001.It has played a vital role for greater inclusion during the interim constitution making process and CA election of 2008 as well as in advocating that Nepal should be an ethnic-based federal state, which the government agreed with

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[8]http://www.constitutionnet.org/vl/item/nepal-agreement-between-government-and-janajatis-7-august-2007-22-saun-2064.

in a twenty point statement[9] in 2007. Thus, in the now-dissolved Constitution Assembly there were various representatives from different ethnic backgrounds, females, Madeshi and Dalits, which Nepalese have never known representing different political parties before (Stokke and Manandhar, 2010: 15). In Nepal, the relationship between the political parties and indigenous people is still difficult and complex. Most of the indigenous members have spent their whole life for party politics in those parties, however their experiences are mixed. During a workshop I attended organized by Kirat Yakthung Chumlung, most of the members admitted that they do not want to leave their party as they think that the party would be inclusive. In the Constitution Assembly election of 2008, 218 indigenous members were elected out of 601 members representing different political parties, directly and indirectly. However, the elected members have to be accountable to their respective parties' ideologies. As time passed by, and the debate in the CA over future federal structures got deeper, inter and intra-party conflict between indigenous and non-indigenous members occurred. When the Committee on Sharing the State Resources for State Restructuring brought the recommendations on identity-based federalism (14 provinces) according to interim constitution of 2007, the Nepali Congress and Communist Party Nepal (United Marxist and Leninist) tried to release the recommendations[10]. Another major obstacle for the constitution writing process was the disarmament, demobilization and reintegration (DDR) of the Peoples' Army into the Nepal Army. The DDR effort created much dispute and led to the Prime Minister's (Prachanda) resignation. Then, power feuding and conspiracies took center stage among the political parties and leaders, which invited a crisis and a vacuum in the executive body for more than six months. During this time I was in Nepal on a field visit; I was the victim of such conditions, which forced me to change my entire plan and made uncertain the successful completion of my fieldwork. I will further explain these experiences in my methodological chapter.

Despite several continuing interruptions and power struggles among political parties, Nepal has moved forward with its peace building. It was a landmark achievement that combatants from the Peoples' Army were reintegrated into the national army in 2012. Similarly, keys to seven cantonments were handed over to Army Integration Special Committee, which was another

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[9]http://www.nepalbiznews.com/newsdata/Biz-News/nefinagrres.html
[10]http://www.iwgia.org/images/stories/sections/regions/asia/documents/IW2011/nepal_2011.pdf.

important achievement. However, 'democratic restructuring of state' as the part of the peace process has remained contentious and is still debated in Nepalese political and social arenas. In the present context, the movement and ethnic activist continue to struggle for secularism and greater decentralization (autonomy), which was not finalized, due to the demise (expiry) of CA (whose term was extended for thrice). The leading political parties could not agree on the issue of defining models even when the deadline of CA was extended three times. After the demise of CA, the dissident indigenous members represented by different mainstream political parties started to resign from the parties they represented. They thought that the issues that they raised could not be addressed politically and democratically by the existing party, but were being discussed by top leaders behind closed doors. Activists and scholars are still searching for common ground to address these tangled issues politically.

1.4 A Return to the Thesis Topic

My early investigation into alternative models of federalism has led to my assertion that any (preferred model of) federalism in Nepal should accommodate the rights to participation and to development for all people so they can co-exist peacefully without state and societal discrimination. The removal of the age-old discrimination against indigenous nationalities is a must. Very often, the political parties claim that they are the representative and the voice of "the people". These kinds of claims are problematic given the heterogeneity of Nepal in terms of ethnicity, gender, age and region. In my study I investigate what federalism and democracy mean to some leading political cadres and how well their personal views match their party's official line. I also discuss how seriously the parties have addressed some key concrete governance issues that in my mind are the most important ones in the Nepalese context; namely the issue of ownership and management of natural resources, revenue and tax collection and if and how their standpoint affects their views on how many federal units there should be and how to do boundary drawing. Arguably, having good answers to these issues is critical for coming up with a federalist model that will promote the peaceful co-existence between the peoples who over several generations have lived together in the same villages, VDCs and watersheds. Thus, there can be a chance of developing a governance system that can ensure Nepal remains intact as a sovereign state, which respects equal rights, does away with economic and social equalities, and promotes distributive justice, sustainable economic development in the hills and plains and durable peace. Furthermore, I would like to analyze NEFIN's vision of identity-based

federalism. The main reason for choosing NEFIN is that being an umbrella organization of 48 ethnic groups it advocate group rights. While emphasizing on group rights it will fail to forge agreement with political actors. Hence groups' rights have to be balanced with individual citizenship rights. If recognizing group rights, individual rights to development and rights to participation would be hindered. Thus, in this context of seeking answers to my research question I have benefited from several scholars, including the work on State Sovereignty, Human Rights and Peoples' Participation by Tone Bleie[11] and *Multiverse of Nepal's Democracy, Is Culture of Constitutionalism the Agenda (2010)* by Tone Bleie and Dev Raj Dahal.

1.5 Objectives

The general objective of this investigation is to document certain selected political understandings of relevant federal solutions to problems in Nepal and to relate them to the ongoing academic debate over what kinds of federal approaches may or may not work in the Nepalese context. In view of this objective, my empirical analysis of federalism zooms in on representatives of some of the major political parties of Nepal, along with their manifestos. Along similar lines, I have also chosen to analyze NEFIN's policy. It is my assertion that this kind of scrutiny, based on the use of key literature on federalism and its links to democracy, can provide insights into the changing and volatile political context (state building process) in Nepal and how Nepalese peoples (both *Aadabasi Janajati* and all other) can truly benefit from a changed governance system. I like to interrogate how justice and peace-oriented the current politics of NEFIN - in terms of addressing the group-rights and individual rights[12] of all national stakeholders through their policies of taxation, natural resource management etc.

1.5 Research Questions

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[11] http://uit.no/Content/225150/forum_report_2010.pdf

[12] Individual rights: signifies rights of an individual. Individual rights are generally seen as composed of different "baskets of rights": civil, political, social and economic. The term signifies the universal right of any individual human being. However, such rights are considered best protected within democracies. A democracy provides two kinds of rights, i.e. negative rights – those that are against the imposition of government and limit individual freedom. Positive rights are those that are about the wellbeing of citizen(s), identity and being capable of practicing or exercising legal interest (Bleie and Dahal, 2010:2).

The main purpose of the study is to investigate the definitions of federalism according to the major parties in relation to the context of state building and development of Nepal. How do the people of Nepal position themselves in the volatile and fragile peace process? How do they have having different views about how greater self-rule and decentralization might redress past oppression and deep-seated discrimination? Presently, federalism – whether this is justified or not - has been elevated as one of the most important solutions in making the Nepalese state less discriminatory and centralistic. Notably, there are diverse views among high caste groups, indigenous organizations and intellectuals about the merits of federalism and if federalism per se is the "master solution" to the ingrained problems of state discrimination. Thus, in this thesis I will address this topic by seeking answers to the following questions:

1) How do the federalist policies of CPN (M), NC and CPN (UML) differ, and are these policies practical solutions to the division of labor between the center and federations in the key areas of ownership of Natural Resource Management, revenue and tax etc.?

2) In view of the academic literature on federal models from different parts of the world, which models are more relevant than others for Nepal, and what are the important criteria of relevancy?

3) Is NEFIN's current policy for identity-based federalism in Nepal take into account individual human rights (the right to development) of the poor from the dominant high caste groups, the untouchable castes and other marginalized communities?

4) Is the historical legacy of self- rule and governance of land in Limbuwan[13] of relevance to the recently declared Limbuwan?

1.7 Study Area and Operational Approach

Among the many cities and districts of east Nepal, Dhankuta, Panchthar, Illan and Taplijung fall under Limbuwan, where mostly Limbus and other castes have been residing harmoniously. However, due to time constraints and the harsh rainy season, I only visited Illam, which is the proposed capital city of Limbuwan. These were the territories having a past history as

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[13]Literally meaning 'The land of Limbus '*Yakthung Lage*' '*Lilimhang*'. A country which was won by bows and arrows. According to authors, the word is originated -*Li* meaning bows and arrows, *abu-* to hit and *Wan-* country (Baral,Bhawani and Limbu,Tegala Kamal, 2008:28).

autonomous. In the same way, I visited Chitwan districts from west of Nepal i.e. Tharuhat. However, the unavailability of my informant in this district has forced me to change informant, whom I later met in Kathmandu in the Tourism Board. Presently, these districts fall under Limbuwan and Tharuhat according to the unauthorized federal division map of Nepal[14]. This study is basically focused on member of political parties, NEFIN and other ethnic activists, so that most of my time for interviewing was spent in Kathmandu and its sprawling suburb.

1.8 Outline of the Thesis

In this thesis I will first, in chapter two, explain the methodological framework through which I collected my empirical evidence. I will also in this chapter briefly reflect on some critical methodological and ethical issues, based on insights I have gained through my study at Centre for Peace Studies. In chapter three, I will be presenting a theoretical framework and analytical concepts that I found very useful. In this chapter I will argue that any study of federalism has to be based on theories of the state, democracy and identity. This structure (which can take many forms) helps to ensure non-discrimination and respect for peoples' sovereignty. Because the topic of how federalism creates greater decentralization of power is very comprehensive, I have split the outline and analysis into two chapters. In chapter four, I present and analyze my informants' views on federalism and policy in tax, NRM and infrastructure and address how well their views match the official view of their parties. I will then further analyze the research-based literature of prominent authors and their suggestions for future federal structure. Chapter five asks how the state invaded and destroyed local autonomy in Limbuwan (historically self-ruled for a long period) in 1964, and under the guise of the Land Reformation Act. I will also relate this to Nepal's recent history of community forestry and discuss my informants' views on the decentralization policy in the community forestry sector – since this may provide lessons learned for the contested federalism debate. After discussing this, I will focus on NEFIN as a key actor of the indigenous movement, advocating groups' rights according to Nepal being state party of ILO 169. In this regard, I will make use of the of the work on state sovereignty, human rights and peoples' participation by Tone Bleie[15]and in particular her main argument that group

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[14]www.federalnepal.org.np
[15]http://uit.no/Content/225150/forum_report_2010.pdf

rights can be balanced with individual citizenship rights. In the conclusion, I will attempt to summarize my investigation and outline my main answers to the research questions.

CHAPTER TWO

2.1 Methodology and Experiences as a Native and Inexperienced Researcher

This chapter discusses methodological issues, including pre-fieldwork research design, choice of methods and tools for primary data collection, my fieldwork experiences as a native researcher and use of secondary sources. I hope to reflect on some of the emerging and new insights into the key challenges and dilemmas in obtaining reliable and relevant data - gained as a student of Peace and Conflict Transformation Studies.

2.2 Pre- Fieldwork Research Design and Safety Measures

Being an inexperienced researcher, I gradually became aware of the challenges of doing serious preparatory work in the design and planning of research through the lessons taught to me by my teachers at CPS. One main challenge was my dual position as both a native researcher and a (secret) Janajati movement supporter; which I had singled out as one of the civil society actors I wanted to study. My supervisor used to ask me: how can you study federalist politics in your own country if you know the conclusion of your thesis in advance – namely that identity base federalism is "The Solution" to Nepal's problems? I was quite provoked by her questions while I was preparing my project proposal in the spring of 2010. I was advised to shift my exclusive focus from lofty, abstract indigenous rights claims to a grounded focus on how to ensure peaceful coexistence and development in Nepal's diverse multi-cultural and multi-ethnic watersheds, counties and districts. In developing my research design I chose to investigate a few concrete policy areas, principally natural resource management and tax collection and the naming of the new federal entities. I believe this focus allowed me to wrestle with Nepalese realities and to challenge my own ideas of ethnic federalism being the "best choice" for my country. As I worked intensively on my research design before leaving for fieldwork in the summer of 2010, I chose to develop a design that allowed me to gain in-depth insights into the ideas of federalism held by a few selected quite prominent political leaders of three mainstream parties from Nepali Congress, Communist Party Nepal (United Marxist Leninist) and United Communist Party Nepal (Maoist) and assess their views in relation to their party programs and manifestos. I decided to also look at NEFIN's (a lead umbrella organization within the Janajati

movement) specific policies in these key areas of federalism. In view of their strong emphasis on human rights, and indigenous rights in particular, I decided it would be useful to examine how much weight they accorded individual rights as opposed to group rights, since this provides a critical examination of the degree to which one has conceptualized how to solve and mediate the very basic issues of local democracy and development. Moreover, I decided it would be valuable to examine Limbuwan and Tharuwan, both as historical legacies and contemporary cases of self-declared ethnically defined units, to see how they are understood and used politically in Nepal. With these key decisions made in my research design, I had to strategically devise my choices of interviews and observation. A semi-structured interview is designed to retrieve information from informants. During fieldwork, all interviews were transcribed and coded. In this regard, I read and translated these interviews. Gokah emphasizes the physical, visible and invisible threats, as well as other conceptual elements, for someone who is going to the field for the first time as a naïve native researcher (Gokah, 2005: 61). The process of developing my project proposal was hectic for my supervisor and me, due to my academic challenges. This forced me to work on the clarity of my proposal. After arriving in Nepal I tried to revise it with the help of my uncle. However, the political crisis erupted shortly after my arrival. In many cases, my research plans did not work due to the crisis and other hazardous situations. Scott Meyer had similar experiences during his fieldwork and advises researchers that these kinds of difficult situations may occur. Being an inexperienced and rather naïve researcher, Meyer's inputs (2007:71) helped me in my own preparations prior to my fieldwork. So did my reading of Radsch (2009: 92), who shares why he could not conduct his research in Lebanon as he planned to, and Gokah, who argues that conducting research in a post-conflict country is extra difficult due to the instable situation (2006: 70). However, I was guided by the principles of "do no harm" and the "do's and don'ts" in relation to ethical issues, as put forward by scholars such as Spradley James and David Silverman (1980:20; 2005: 257).When I arrived in Nepal during the monsoon season, I got caught up following the research-related areas that I explained in chapter one. Accessibility is easier in Kathmandu in terms of transportation, communication and other facilities but is difficult in Taplejung, Terathum district, due to the monsoon and rigid topography. Therefore, I chose to visit Illam, where accessibility is easier than in these remote districts. After finishing my field visit to Illam district, I left for Chitwan district. However, some wrong information that I received from one of my informants ended up costing lot of time. I had to travel five extra hours

on the bus to reach Chitwan. Due to this, I could not meet my informant, who left me message that he had a meeting at his Kathmandu office. This forced me to change the informant, whom I later met in Kathmandu at the Tourism Board in the last hour by personally approaching him. While in the process of developing thesis, including Tharuwan would have been very lengthy due to the constraint of space. With the consent of my supervisor, I will only take a case study of Limbuwan only.

2.3 Reflection on Trust, Accessibility & Fieldwork Experiences

The primary data for my thesis project was to be collected during nearly eight weeks of fieldwork in Nepal in 2010.The primary source of my data collection was semi-structured open-ended interviews with carefully selected key informants. I have already shared how and why I decided to use qualitative research and interviews. It turned out to be a challenge to get access to the most interesting informants, especially from the top rung of the political parties. As for the Janajati movement and NEFIN, the situation was much easier due to my position as a native citizen with close affiliations with and some of the friends in this ethnic movement. Of course, having such vastly different categories of informants creates particular challenges not just in the field, but also for the processing and analysis of primary interview data.

Returning briefly to the literature on methods, arguably, without trust accessibility is never achieved. Radsch, while he was conducting field work in Egypt, argues that trust is important for gaining access during research, but the researcher must know how to get initial contact based on cultural practices and the norms of the community (2009:95). Similarly, Norman argues that definitions and expressions of trust differ between individuals, disciplines and cultures (2009:71). I relate his argument to my own dilemmas of trust building and access to my two main categories of respondents, party cadres and ethnic/indigenous activists. Accessibility to both these categories was crucial in order to get secure reliable and relevant data. The political situation in Nepal had become unstable due to the resignation of the Prime Minster a few days after of my arrival. The political climate between the Maoist Party (just out of government), UML and NC was poisonous and all high level politicians were very busy with fractional meetings, bargaining over appointments within the new government and maintaining good relations with the diplomatic missions and international organizations. In this context it was very challenging for a MA student (even if I was studying abroad) to get access to these busy political

leaders from prominent parties. While after several cancellations, I finally got a breakthrough in getting the necessary trust and commitment from NC leader by mentioning my supervisors' name in a phone conversation. My supervisor has a wide network among leading intellectuals, including Nepalese policymakers. At last, on one morning she called me and told me to come immediately to her residence.

In the meantime, I had started visiting party offices with the hope of further appointments and to be allowed access to party draft manifestoes on federalism. While being in the party office of United Communist Party Nepal (Maoist), I was put in a severe dilemma when I was asked to give a cash donation and refused on the spot to do so. I never expected that this would happen. The party cadre bluntly told me that without any donation I would not get access to the draft manifesto on key constitutional issues. I was forced to pay for it, as it cannot be found in soft format. Scott Meyer argues that sometimes a lone researcher will face unpredictable situations in the field, like I did during my fieldwork. He suggests that unpredictable and hostile situations have to be ignored (2007:72). Being an inexperienced and rather naïve researcher, I did pay this "bribe" on the spot, but it left a bad taste in my mouth. I also faced other frustrations: a number of potential informants did not respond to my calls. Again I consulted my relative uncle, who suggested that I approach another indigenous-focused NGO called KYC (Kirat Yakthung Chmulung) as he had good personal contacts with them. The contact he gave me was my senior brother with whom I used to study at the same school. He helped to introduce me to other staff and even the acting General Secretary. I described my intentions to research federalism and he and the acting General Secretary provided me with some insights on the issue. I became a good friend of acting General Secretary and even introduced me to the field contact that I need for my fieldwork. In view of my dependence on mobilizing intermediaries, be that my relative or my supervisor, anthropologist Bista's argument that in Nepal the major asset for anyone's success is not what you know, but who you know (1991: 98), seems very correct. Bista (1991:4) further argues that in Nepal there is a particular social institution known as *'afno manche'* or "one's own people" that plays a vital role in conducting research (or any business). *AfnoManche*[16] was used fruitful for me during my fieldwork in Nepal. This institution has no doubt both positive and

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[16] *AfnoManche* - A group of member (Collectivism) manifests in a particular social institution of much importance that gain advantage and privilege.

negative consequences, but I used it rather effectively; others might not have had these contacts or "social capital" and may have been denies these opportunities for access. Also using my own networks and social capital as a supporter of the Janajati movement, I was able to contact very useful informants. For example, a good friend and writer about federalism and Limbuwan invited me to a workshop where I was able to meet other important political leaders from CPN (UML), various indigenous leaders from different leading parties, and the newly emerging Limbuwan political parties. During this workshop, my potential informant from CPN (UML) gave me his cell number, so I could fix and interview time with him. The workshop was called *Analysis of Limbuwan Atrocities and present political analysis*.

I was tense, and the political situation of the country was unstable/unfavorable, so I knew that when I went to the field there would be challenges. I divided my time and started searching for personal contacts who could set me up with an interview with UCPN (M) before I left for the field. In the last moment, with such favor of my former boss I was able to interview my informant from this political party in a hotel called (London Guest House). Initially my respondent called me into his *Singha Durbar*[17]office. When I asked about the administrative procedures, he changed the place and called me into his private office. Despite this, he was somewhat skeptic towards me comparing to others (informants) in terms of collecting data. Norman argues that trust is based on a cognition processed by rational choice, one inherently assumes that s/he will not be hurt and does not mistrust deliberately (2009: 72). I did not have a long time to develop trust like the author argued, so had to show written documents as evidence. I started showing my letter from the University and he asked me to show my identity card. I kept on reading his facial expressions as my identity card was the last option to win his trust. Finally, he decided to give me an interview. To win someone's trust is like finding an oasis in the desert. In my case, I got access being research student such rational trust helped me to take interview. These circumstances made me to think of Gokah, as he argues that it is more difficult to conduct research within one's own country than it is conducting it in a foreign land (2006: 63). His experience as native researcher becomes outsiders.

2.4 Role of the Native Researcher and Social Context

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[17]Singha Durbar–the Government Secretariat, located in an old palace in the middle of the sprawling capital.

In this section I will try to explain my role as a research student in my own country and how I managed to get primary data in a situation of fragile peace and political instability. Feenan cites Sukla (1990), who argues that to conduct research in high (political) conflict countries is difficult due to the risk of physical threat and the risk of bias due to the ideology of the researcher herself (2002:148).The researcher has to act differently according to the situation, whether it be psychologically or physically. The political situation created barriers to the success of my research; my informants kept on postponing their fixed appointments. On the other hand I faced such a challenge on the way to a field visit, when I heard about a strike. Later on I discovered that the strike was organized by the Limbuwan Prantiya Parishad (Limbuwan State Council), who was resisting the annexation of Limbuwan to Nepal in the 18th century. On the other hand, as I was an inexperienced researcher, who was undertaking a short piece of research, I had to think about time, money and how to get my data in a short time span. Gokah argues (2005) that accepting the help of an experienced researcher is beneficial for saving time, money, conducting research and even in hostile situations. I consider the guidance and help from my uncle to be quite critical in me being able to conduct (more or less) my research as planned.

As already underlined, I am a native researcher, conducting research in a volatile post-war context where identity politics play a big role. I am not an insider in every sense, since I am influenced by my own bitter experience of caste and ethnic discrimination. My hidden political ideology and outlook "color", in several ways, my own self-understanding and how I perceive others. In fact, I am skeptical towards high castes and their attitudes because they belong to a certain community of people. Therefore, in my case my own behavior and the treatment I received from my intermediaries and informants was not value free. In some instances I was badly treated and I felt I was suspected of being unreliable; in other situations I was perhaps also quite prejudiced.

Research on this topic sometimes put me in difficult situations. As explained above, because identity politics plays a vital role in Nepal, it was paramount to maintain the privacy of informants. During one interview in Illam, my informant accused me of relaying his responses to the media when I asked him about the future of federalism in the country. He was correct to some extent, as the Nepalese state is still contesting the appropriate federal model. I assured him that I would not do so, as I was guided by my research ethics, and had an agreement with Social

Science Research Department. Therefore, Spradley suggests that researchers may research or donor institutions may give grants for research. The foremost duty of the researcher is to safeguard informants and to respect his/her rights and interests, so that any hostility in the field may be avoided and no unfortunate/hostile situations are invited (1980: 21). Similarly, Feenan argues that trust, transparency and security issues are the major elements needed for field research. Researchers may leave the field but informants cannot (2002:147).

Silverman argues that gender becomes a core factor for accessibility in fieldwork to reach to informants and to get data (2005:264). Gender in Nepal is a sensitive but important issue in relation to any research undertaking. Given the social structure and culture, I was privileged to be a female student researcher. Being a female student researcher, I was conscious of the necessity of gender balance. However, I was failed to achieve this balance: out of 11 interviews, I was only able to meet 3 females. As mentioned above, gender is a sensitive issue, but I was welcomed and supported as a female student researcher during my fieldwork. I was welcomed and treated well in a friendly manner in Illam district by my informants. However, travelling alone put me in difficult situations; I was asked different questions about my study and intentions. I was informed that I would find transportation easily on the way to my next field, but some wrong information led me to travel five extra hours to reach a destination. I felt that I should hire a research assistant, which my supervisor suggested to me prior to my fieldwork. I was determined to research in a gendered way and to gain my own experiences as well as to face risks. If I had researched in a team, I would not have been able to conduct research of my own choice. Therefore, I thought it would to be more beneficial to be alone than in a group. In some contexts, gender is advantageous. In most of cases, my informants presented themselves in friendly manner being female.

2.5 Reflection on Sources of Data Collection

This study is based on both primary and secondary data. The primary data is constituted of mostly semi-structured interviews, in addition to this, the analysis of political texts like party manifestos and pamphlets. Silverman argues that interviews are researcher motivated data, and are different from naturally occurring ones (2006:113). Researcher motivated data is important as it results in the collection of information and unexpected data, which the researcher cannot get in natural occurring data. I obtained researcher motivated data through interviews and

observation. Therefore, semi structured interviews were conducted to get information. Holliday argues that qualitative research hands over a testimony about reality and social life that has to be frequently discussed (2007:1). Bearing this in mind, I started searching for responses to the research questions of my thesis. Flexible, semi-structured interviews became appropriate for me because in structured interviews, with their structured questions, one cannot get such information. Likewise, Payne and Payne argue that the quality of data depends on the quality of interviews that the interviewer is conducting (2004: 130). But this does not mean that doing an interview will automatically provide quality data. It depends on how well the interviewer presents his/her questions to get the appropriate information. So, that is why the authors further argue that the interviewer should choose sincere and honest interviewees to get reliable data. For this, the interviewer must have good administrative skills and a skilled fieldwork supervisor (2004; 131). My supervisor suggested to me that I collect the federal policy of political parties. During my fieldwork I gathered them. I will analyze them in chapter four in terms of their number of federal models and policies on tax, natural resources management and development.

My secondary data sources were books on federalism. However, as it is a new form of governance, it is difficult to find references and literature in Nepal. My supervisor recommended that I read the recently published co-edited book '*Multiverse of Nepal's Democracy, Is Culture of Constitutionalism the Agenda (2010)* and another paper *'State sovereignty, Human Rights and Peoples' Participation'* presented in the international conference. Similarly, Mahendra Lawoti recommended that I make use of a book called '*Towards a Democratic Nepal (2005)*'. Furthermore, he suggested that I read his other published articles in the newspaper and internet on the issue. For further analysis, my supervisor asked me to collect the federalist manifestos of different political parties. I gathered these during my fieldwork in Nepal from the respective party offices. After I conducted interviews with my informants, I started to search for NEFIN's policy on individual right versus groups' rights. But unfortunately NEFIN has not conducted its work on this issue. I also used other materials like newspaper articles, internet, journals and individual writings etc.

2.6 Sampling Procedures

As federalism is my research topic, I could not gather information from those who do not have the competency to respond to my research questions. I still remember one of my informants, who

told me that such federalism has not been properly understood by the intellectual arena. If this is the case, how is it possible for the people from marginal levels to understand it? Therefore, I made appointments with those leaders and scholars who have competency in these subjects so that I could have their opinion. I went out into the field without clarity on federalism, but practical information that I received from my informants helped me. Most of my interviews were in-depth interviews. My most important informants were from the major political parties of Nepal. They hold a central place in the party, which I will explain later in chapter four. Prior to my fieldwork, my supervisor recommended that I interview civil societies and bureaucrats too. For that reason, I chose to interview four people from NGOs (NEFIN and KYC) with different capacities; two were bureaucrats. Among these two one of my informants is retired. The other is a member of Federal Limbuwan State Council (Lingden), a regional party that advocates Limbuwan province, and is a (political) scholar. The state restructuring (federalism) that Nepal is going to adopt, determines the destinies of indigenous people and other marginalized people and females. I was conscious of the fact that I needed to choose informants who have competency in the subjects related to my thesis. Therefore, I used purposive sampling to choose my informants. I too was conscious that I should not have any bias view on the questions I asked, as I did not want to bring on any unnecessary discussion. The interviews were open-ended ones. After conducting all these interviews, my thoughts started to collide in my mind. My concern was how the common person has perceived this state restructuring, when they have had difficulty putting food in their mouths. Many common Nepalese had high hopes that the 'democracy' they received will give them (have) equal access and opportunities from the government. However, it invited a decade long insurgency instead. Thus, I felt confused.

2.7 Conclusion

This chapter discussed the key facets of my methodological framework. I have also discussed the many practical and ethical dilemmas I faced during eight hectic weeks of data collection in a period when the post-war situation was very volatile with a change of government, widespread corruption and several general strikes. I was forced to maneuver around these circumstances in order to complete my fieldwork in Kathmandu valley and in the districts of Illam and Chitwan. My primary data was collected mainly through in-depth interviews, with the help of semi-structured open-ended interviews with political leaders. I have also collected secondary data such

as newspaper articles, Internet research and journals etc. My own informants were selected through purposive sampling, and there were several dilemmas and shortcomings, including a skewed gender balance.

The eight-week fieldwork in Kathmandu, as well as in Illam, resulted in certain challenges. These challenges ranged from political instability to social structure to my personal background. As mentioned above, it was difficult to conduct interviews due to the politically unstable conditions. My interviewees kept on postponing. I also had problems conducting interviews with my major informants. Some called me to their residence and others to their private offices. My limited background was a barrier that made it difficult to understand and analyze my respondent's views. Thus, a researcher has to be careful how s\he demands his\ her respondent to respond by constantly analyzing, self-interrogating and re- interpreting their responses.

3.0 A Theoretical Framework

3.1 Introduction

In this chapter, I will outline and discuss the theoretical frameworks and main concepts that have come to inform my own theoretical thinking and have been the basis for my empirical study. The main focus below will be on the kinds of theories that can fruitfully inform a study of federalism. Any study of federalism has to be based on theories of the state and democracy. Federalism is a politically agreed upon governance structure, preferably based on democracy. This structure (which can take many forms) helps to ensure non-discrimination and respect for peoples' sovereignty. Tone Bleie and Dev Raj Dahal (2010:2) argue that democratic views of governance require that the state sees its people(s) as equal before the law and provides basic human rights and needs by government arrangements that are multi-tiered. Any government is legitimate and lawful if it values the representation of all its citizens, allows the public to reason on its policy, and distributes powers. A virtue of democracy is that it treats all citizens as equals (ibid). In Nepal, the greatest challenge is to institutionalize such radical notions and make political decisions trustworthy. Over the last 250 years the state has treated its citizens as common subjects and not as citizens. Politics were imposed based on order, command and a system of privilege for the few. The excluded mass of people was treated, in several respects, as muted subjects. They were continuously deprived of basic human rights; in fact, one could argue that they were seen as lesser human beings, and if they protested, punishment was graded (according to caste) and very harsh for most ordinary people based on their ethnic and caste status (Hachhethu, Krishna, Kumar, Sanjay and Subedi, Jiwan, 2008: 73). In the late 20[th]century, such grave inequality and deprivations became the context that encouraged an escalation of conflict, and one increasingly along ethnic lines. At this stage, the functional hierarchical caste order based on patron-client-like relations or *Jajmani*[18]relations had more or less collapsed due to imports of cheap industrial goods from India and China, which had left former untouchable castes without the age-old demand for their occupations that had constituted their safety nets.

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[18] One of a fixed circle of persons in Hindu caste system who a member of occupational groups serves as exclusive and hereditary rights. http://www.merriam-webster.com//dictinary/jajman

The ethnic hill groups faced grave livelihood difficulties, even if new migration opportunities to the fertile Terai (from the late 1960s) brought some relief. Meanwhile, the established international migration of able-bodied men as professional soldiers (Gurkhas) was on the decline.

3.2 The Notion of Conflict

In simple terms, conflict normally involves struggles between groups or individuals over any subject or issue like material resources, power, status and identity etc. Peace Scholar Johan Galtung defines conflict as an incompatibility of goals or mere disagreement (1996:197).This definition of conflict is very extensive, multifaceted and vague. Conflicts exist everywhere and are difficult to get rid of because their nature is dynamic and they are not solely negative or positive. Conflict is ever-present in every society and culture in the world. However, it can be viewed as a source of development too. Such a view can be useful when conflicting parties, individuals, and groups (collectives) are interested in neutralizing grievances through negotiations.

Noble Kwabla Gati argues that political scientists recognize conflict in terms of the struggle for equal access to opportunities and life chances in any prevalent political order (2008: 24). Thus, it can be seen as a contest for equal rights and advantages that are given by the state in a democratic way without any discrimination and exclusion in opportunities. In Nepal, this kind of violent conflict has taken place during different historical moments. Mahendra Lawoti identifies the violent communist movement that arose as an attempt at radical transformation in order to establish just peace in Nepal (2005: 41-51). The author refers to the communist movement of 1971, where *Jhapalis*[19] killed landlords and feudal class enemies, and were influenced by the *Naxalite movement* [20]of West Bengal, India. Later on, this movement was brutally crushed by the state. Similarly, the Maoist insurgency can be taken into account. The message they spread for radical transformation largely attracted a section of excluded and marginalized ethnic communities who have been left deprived by the polity over the last few decades. In line with

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[19]Jhapa- Eastern district of Nepal. Border to India.
[20]See Tone Bleie, Tribal Peoples, Nationalism and the Human Rights Challenge: The Adivasis of Bangladesh. (2005: 103)

this, the scholars Mahendra Lawoti and Krishna Bahadur Bhattachan[21] argue that political and polity exclusion, discrimination and inequality are the recipes for and breeding ground of conflict between state and indigenous collectives in Nepal (Lawoti, 2005: 29). Ethnic-based inequalities often result in a subjective sense of discrimination, and active use of ethnic identity for political mobilization of group interests is a multifaceted political and social process. Scholars of ethnic relations and ethnicity view these issues from different theoretical angles[22]. Similarly, Mahendra Lawoti condemns the theory that people who support mono-ethnic polity complain and bemoan the mobilization of such marginalized (excluded) groups. Such groups mobilize because the ruling groups rarely surrender the unjustified opportunities and advantages enjoyed by them[23].Global democratic history is the evidence; common people have had to mobilize to take their rights from autocratic rulers and social elites. Nepalese history is an excellent example of this. These so-called enlightened social elites did not allow democracy to start in 1951, 1990 or 2006. Democratic notions and viewpoints did not influence the rulers in these instances. Marginalized groups are mobilized not for amusement, but for democratic rights and equality. It is the rejections of rights and persistent inequalities that have in recent decades implanted the seeds of conflict in Nepal. These still have to be negotiated in peaceful democratic ways (Bhatta, 2008:7). Democracy plays a vital role in transforming multilayered conflict (Bleie and Dahal, 2010). Such multilayered conflict can be negotiated by any concerned polity through commitment to institutional reformation of democracy via peaceful negotiations. "Peace" has several contemporary political meanings as well as philosophical meanings (as for example in Buddhism). Peace has important and distinct meanings for the main actors in Nepal, as indeed also for scholars of peace and conflict. Peace can be categorized as "negative peace", when there is simply the absence of war, and as "positive peace" when there is a genuine absence of structural and cultural violence (Galtung, 1996: 3). The latter version of peace exists in egalitarian democratic societies where one has been able to remove deep-rooted discrimination and inequalities, and the state guarantees that citizens can satisfy their basic needs. However, things are different in Nepal. The deep-rooted structurally undemocratic, unconstitutional deeds

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[21]http://madhesi.files.wordpress.com/2006/09/bhattachan report.pdf
[22]http://www.isca.ox.ac.uk/fileadmin/ISCA/ACADEMIC/D_Gellner_publication_files/EthnicrightsinNepal.pdf
[23]http://www.ekantipur.com/the-kathmandu-post/2010/03/18/oped/ethnic-politics/206320.html
(Posted- on- 2010-03-19)

and practices, which are continued by major political actors and power elites, have kept Nepal in a grave and indefinite political and constitutional deadlock. The disputes over state restructuring and identity-based federalism among the major political parties led to the dissolution of the historic CA. This resulted in the present government's failure to promulgate a new constitution for Nepal. Such incidents have shattered the aspirations and hopes of excluded and marginalized communities for their future democratic rights.

3.3 Concept of Identity

Duijzing defines identity as the connection between the individual and a distinct category of people, however, the formation and transformation of identities is determined by wider political developments (Duijzing, 2000:18- 22). Plenty of socio-political scientists and historians have argued that the state has a role in development, as well as in the nourishment of ethnicity and nationalism. This discourse of ethnicity and nationalism is split between primordialist and instrumentalist approaches. Gurung (refers to Paff- Jonna) identifies three historical moments at which Nepalese nationalism and identity was constructed. First, the author refers to the Shah and Rana regime, 1768-1846 and 1846-1951. During this time, indigenous people became subjects of the dominating Hindu religion as a method of making the state more centralized. The ruling feudal elites constructed identities according to the caste base hierarchal order through the civil code of 1854 (*Muluki Ain*). Then, after the *Panchyat Regime* (1960-1990), the nation state was homogenized through a process of assimilation: there was a promotion of one language, one religion and one costume. After the restoration of democracy (1990), the identities were established as 'ethnic diversities' or 'multiculturalism' (Gurung, 2000:129). However, while the state accepted multilingualism and multi ethnicism, it did not accept multiple religions, proving the hegemony of the Hindu religion and the Nepalese language. In Nepal, it is normal for identities such as 'ethnic' and 'indigenous' to be regarded as unusual and therefore treated in a different way. The legal definition of the Nepalese state and a definition in another dictionary by HC scholars are different. Mukta SinghTamang refers to "*Nepali Sabda Kosh*" (the Nepali Dictionary), which defines indigenous and ethnic people as backward, still living in the stone age, lacking civilization (savage) and education, and remaining unaffected by the modern environment[24]. Similarly, the scholar Lawoti has raised questions over the state-created

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[24]http://indigenouspeoplesissues.com/attachments/article/5890/Adivasi_Janajati.pdf

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terms'*Janajati*'and '*Aadibasi*'. The author argues that these terms can be understood through one word,'*Aadibasi Janajati*', meaning a distinct culture, religion, tradition and language that does not fall under the term *Hindu Barnashram* (2006: 64*)*. Thus, Mukta Singh Tamang argues that the listing of 59 groups as '*Aadibasi Janajati*' by NFDIN addresses the issue of state recognition of indigenous identity in Nepal (ibid). In Nepal, people are normally stratified into two different categories i.e. *Jat* and *Jati (Janajati).* According to this, *Jat* signifies castes (HC) whereas *Jati* (*Janajati*) signifies ethnic people (Gurung, 2000: 129)

Over time, such discourses of nationalism in the Nepalese arena have been changing due to the ethnic movement and the efforts of NEFIN, as well as due to the formation of NFDIN in 2002. Therefore, Duijzings argues that above all, the modern nation state has to develop clear-cut delineations of ethnic identity and criteria for inclusion and exclusion (Duijzings, 2000: 23). The wave of identity and historical consciousness politics after 1990 due to NEFIN has univocally strengthened the call for indigenous identity and political rights (sovereignty). Yacob Cheka Hidoto argues that political conflict in the modern nation state takes place or turns into ethnic conflict when the resources of state are shared unequally along ethnic lines, or when minority groups are excluded (Hidito, 2010: 20). Hence, Hachhetu, Yadav and Gurung cite (63) Bhattachan and Gurung (1999), who argue that the ethnic activism in Nepal is guided by inequality and the struggle against discrimination and for inclusive democracy (Hachhetu, Yadav and Gurung, 2010:64).

3.4 Concepts of Federalism

I will examine the main definitions of federalism in social science literature. Let us begin by examining the etymology of the term 'federalism'. The word is derived from the Latin term 'Foedius', which means 'Covenant', or power divided or shared between center and state governments. Lawoti defines federalism as a structural apparatus for the separation of power between the center and states or regions. He further explains that it depends on a constitution to guarantee the power division between center and states/regions. However, key factors like foreign policy issues, defense, and monetary issues should be finalized by the center (Lawoti, 2005:229). Despite this definition, Will Kymlicka argues that there is no universally accepted definition of federalism. He defines federalism as a political system having constitutionally established a division of power between a central government and its sub-unit(s) on the basis of

defined territory, such as the level of sovereign authority over definite issues (Kymlicka, 1991: 270). Prominent scholars like Lawoti and Arend Lijphart depict the diffusion of power sharing between the center (federal) and the provinces (states) under certain and rigid written constitutional agreements (Lawoti, 2005: 229; Lijphart,1999:4). It can be defined as a form of government designed to divide and share power between a strong federal government and its states[25].Federalism can democratize inclusiveness and unitary systems. Federalism is a means to redistribute political power, provide constitutional protection for minorities and cultural autonomy in plural societies with many ethnic groups and nations like Nepal. Lawoti (citing Elazar, MacMahon and Riker) stresses that it separates power between centers and a number of constituencies through law making, judiciary and administrative bodies (Lawoti, 2005:230). He further explains that both the federal and state governments may be independent in different areas. For instance, the regional or provincial governments can make decisions in education policy, taxation or economic policy, and the central government may decide foreign policy issues, defense etc. However, the question is how this can be decentralized without taking away from the central state its indispensable authority and responsibility while ensuring everybody's human rights. In this matter Lawoti takes the Swiss federalist model as relevant for the Nepalese context (Lawoti, 2005:230). Bob Rae explains federalism not as devolution and decentralization, but as a design for restructuring the country (Ghai and Cottrell, 2007). It changes the way power is decentralized and the way local power is performed.

Federalism was put on the main agenda in Nepal, but it was a debated and contested political issue. While talking about federalism CPN (M) primarily commenced its internal conflict based on class. Later on, interestingly, when it blended caste, ethnic, regional and gender elements, many traditionally excluded socio-cultural groups took part in Peoples' War (Bhattachan, 2003: 30; Lawoti, 2005: 65). Such groups supported the CPN (M) led insurgency as it raised the issue of socio-cultural groups. In Nepal, until now, no mainstream political parties had ever been brave enough to raise these issues. Moreover, CPN (M) supported cultural autonomy, the right to self-determination, the declaration of a secular state, equal rights and language rights, and it established several ethnic fronts (Bhattachan, 2010: 19). After the agreement of CPA in 2006, a

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[25]http://www.addisvoice.com/wp-content/uploads/2010/03/ethnic-federalism-.pdf

number of historic changes took place in Nepal. The CA abolished the historical monarchy in 2008. Nepal was declared a Federal Democratic state in 2007, and it amended its interim constitution after the bloody confrontation and protest that took place in the streets of Madesh.

Federalism (state restructuring) has become a befuddling issue for major political parties, but also an important strategy to prevent further conflict in Nepal. As mentioned above, during the Peoples' War, CPN (M) established different ethnic fronts. However, after the historic movement of 19 days (*Mass Movement II*) in April 2006, the King (Gyanendra Shah) was forced to withdraw his absolute monarchism and reinstate the parliament. It was a historic movement as many Nepalese from various backgrounds took part in terminating the Monarch's autocratic rule. Nevertheless, the Maoists rejected the reinstatement of parliament, emphasizing that it was against the 12 point agreement with SPA[26]. The CPN (M) demanded the unconditional election of CA. Subsequently, on 21st November 2006 CPA was formally agreed, ending a decade long conflict through democratic state restructuring and the CA election between SPA and CPN (M). Although CPN (M) raised the issue of federalism, mainstream political parties pushed their own differing models of federalism. I will further explain this issue in my next chapter.

3.5 The Concept of State

I have chosen to use the scholars Bhatt's and James' similar notion of the concept of state as a self-governing political entity with a distinct population, territory and a government that exercises state sovereignty and has the capacity to build up relationships with other states, as defined by international law (Bhatta, 2008:5; James, 1986: 61). The history of state formation of Nepal (the Gorkhali state) dates back to late 18[th]century. The late king Pritivi Narayan Shah annexed conquered kingdoms during that time, insuring Gorkha was respected as the center. This system helped the monarchical state (king) take control over many multi-lingual nations. Here it should be noted that the terms 'state' and 'nation' hold different meanings when considering the social and political views of political scientists. I analyzed Lawoti's definition of 'nation' as a self-identifying community, state and territory governed by common political institutions[27]. Similarly, Harka Gurung explains 'state' as a political organization of an area and a distinct

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[26]http://www.satp.org/satporgtp/countries/nepal/document/papers/spa_maoists_agr.htm
[27]http://madhesi.wordpress.com/2009/05/09/nation-building-or-destroying/(Posted-on- 2009-04-09)

population, whereas a 'nation' signifies a race or group unified by language and religion
[28](Gurung, 2007:46). Based on these definitions, many Nepalese identify themselves as belonging to self-identifying communities. Making one state from many nations is based on a faulty premise. It requires assimilation and the adoption of the melting pot theory. The dominant group monopolizes the state and imposes its culture, traditions, religions and languages. Modern states are interwoven by rule of law, which is essential to keep check and maintain balance. A state based on the rule of law has to perform its affairs according to the principle of proper legislative procedure, which also requires that people have to respect this legal authority. To conduct such legitimate force within a territory (with distinct populations) a state must have a system, a constitution, and a set of institutions. Through these branches, the state functions with respect to its responsibilities towards its citizens. Such definitions are influenced by Thomas Hobbes's *'Leviathan',* where Hobbes refers to the state as an artificial creature created to fulfill the needs of humans in a sovereign state, with the support of government (Bagby, 2007: 19). The people of any state have to be subordinate to its government for the sake of national integration. National integration is possible through a power structure of love and fear of the rule(r), or by rule of law (Gurung, 2007: 46). However, when talking about the rule(r) and ruled, the state needs to manipulate and assimilate nationalities in the nation-building process through different historical discourse and rhetoric (ibid). Hence, Lawoti writes that Nepal was only physically united over the last two and half centuries but never united psychologically[29]. The unification and the making of one Nepalese nation state have failed, as there are a huge number of caste-based and ethnically distinct "communities" suppressed by the dominant caste and by assimilation law. Thus, in a multi-nation world such suppressed groups tend to reject the dominant views and the process of assimilation by different violent means, and the definition of democracy as based on the one-nation theory becomes challenged. Tone Bleie has analyzed Nepalese state mechanisms and argues that its governing bodies underwent some modern restructuring, but still their centralized state policies were held in the grip of the dominant high caste values (2007: 48). Such high caste dominant\majoritarian democracy does not work in a culturally plural society like in Nepal. Lawoti refers to Walker Connor's seminal journal in

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[28]http://www.socialinclusion.org.np/userfiles/file/Social%20Inclusion%20and%20Nation%20Building%20in%20Nepal%20-%20Dr%20Hakra%20Gurung.pdf
[29]http://madhesi.wordpress.com/2009/05/09/nation-building-or-destroying/(Posted- on- 2009-04-09)

"Nation-building or Nation-destroying?"[30]. This kind of a nation-building project has failed in Nepal in the past, and the same failures can be seen in many other Asian and African developing countries. The kind of democracy the state adopted could not address the many aspirations of the people. The political thinkers in Nepal are still guided by this notion. They have thought that modernization could sweep away ethnic identities, and one single identity would emerge which renders loyalty to the state unproblematic. Such a notion builds on assimilation and the melting pot policy. One needs to subjugate "others" to impose the dominant national norms and values, resulting in rejection. In the process of rejection, violent conflict and even secessionism can take place. Thus, complete nation building remains, by default, still incomplete. Even within such suffocating political restrictions, IP groups are depicted as communal and carrying rage against the state.

3.6 The Concept of Democracy

The term 'democracy' signifies that the government is by the people and for the people (Lijphart, 1999: 49). Lijphart (op.cit.) argues that such a definition raises the crucial question of who will govern, and to whose interest the government should be ready to answer when people have disagreements and different opinions. The answer to this question is 'the majority of people'. Certainly this is a straight forward answer; however, it undermines the responses of minorities. Thus, the author argues that the essence of majoritarian democracy respects the rule of majority and does not generally diffuse power; rather it concentrates power in the center. Such a democratic system cannot be popular in plural societies as it excludes minorities (1999:2). Therefore, Lawoti also argues that minorities become permanent losers in culturally plural societies[31]. The consensus model (negotiation model of democracy) is different as it accepts the viewpoint of the majority, but also shares, disperses, and creates inclusive participation of minorities in a genuine manner. In Nepal, a culturally plural society, the constitution adopted a majoritarian perspective with dominant high-caste and individual values, which excluded many minorities (ibid). In other words, it was in favor of the HCP dominant views and fulfilled their

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[30]http://www.ekantipur.com/the-kathmandu-post/2009/05/01/expression/nation-building-or-destroying/191925.html (Posted-on-2009-04-30).
[31]http://homepages.wmich.edu/~mlawoti/documents/PDF%20Docs/CCP.crossnationalevaluation.07.pdf

further aspirations, in the process violating the notion of democracy based on equality and freedom –that everybody is equal before the law and has equal right to power and freedom. This kind of democratic practice has yet to be realized in Nepalese political institutions working at the intersection between societies and the state. In a unitary state structure, the power is held at the executive level, so there is no diffusion of power in political, administrative and economic arenas[32]. Even local bodies are weak and powerless. After the restoration of the democratic state, established in1990, the constitution was highly unitary and embodied, in essence, a majoritarian democracy. Democracy as a normative ideal respects the notion of human rights and sees its citizens/people as equal before the law. It has the ability to deliver political power and impose accountability onto leaders. The democratic views that human rights and basic needs are accessible to all the people/citizens equally under the law and can be guaranteed (Bleie and Dahal, 2010: 2). Undemocratic constitutional practices are still deep-rooted in Nepalese political institutions. Thus, the authors further argue that Nepalese institutions and its political leaders need to do some soul-searching practice in order to establish a real and inclusive culture of constitutionalism (Bleie and Dahl, 2010: 1). Such institutions can establish a constitutional culture of real inclusiveness, based on checks-and-balances, so that the relationship between the accommodative state and the civil society, and the relationship between the state and the citizens, are based on trust.

Increasing mistrust, a sense of alienation and the growing use of violence as a legitimate political means, have invited strikes and lethal violence in Nepal instead of democratic rational discussions and negotiations. The peace scholar Johan Galtung describes violence as 'avoidable insults to basic human needs and violations, whether it is in case of survival needs, wellbeing needs, identity needs and freedom needs' (Galtung, 1996: 197). Therefore, peace is a basic prerequisite for a "New Nepal", where human beings and society should develop and thrive. The absence of peace invites different and multiple layers of conflict in society. Ethnic politics have indeed opened new fault lines. Ethnic politics are pursued by activists with very different ideas regarding the legitimate role of violence in creating a better and non-discriminatory society. Many citizens and ethnic activists stick to democratic and peaceful means of political struggle.

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[32]http://homepages.wmich.edu/~mlawoti/documents/PDF%20Docs/DemocratizationPromoting&HinderingContentiousActivities.Lawoti.CPDN.Sage.pdf

For them peace is important both as individuals and as collectivities. They think (in line with Galtung's peace theory) that there is "negative peace" in Nepal: that is, simply the absence of war. They want to work for "positive peace" – a new condition without structural and cultural violence. However, in Nepal during the last 15 years, a violent conflict between the Maoists and the state's security force (followed by the post-CPA) has opened up ethnic, caste and regional conflict lines that have been acting as centrifugal forces. The CNP (M) has led the political struggle to dismantle the high-caste Hindu state, and many from Nepal's nationalities (*Janajati*) have partly formed-and also joined-several Maoist-led political organizations. These people fought as combatants in local militia and in the People's Liberation Army during the armed conflict. Many young people from ethnic nationalities are still convinced that violence, even lethal violence, can be resorted to. There is thus a huge variation in the views of citizens of ethnic origin regarding their commitment to minority and indigenous rights, the notion of "peace", and the legitimate role of violence versus deliberative democratic means. There are also vastly different views on the secular (versus Hindu monarchical) state, on the role of state restructuring, federalism and accordingly, varying support for political parties.

3.7 Conclusion

I have outlined and discussed the influential theories and concepts of scholars in peace and conflict studies on the role of federalism within democratic or democratizing states. One may argue that previously armed conflicts like the decade-long civil war in Nepal can be negotiated and resolved in a peaceful, democratic way for the harmony of society and country. This is possible if the concerned ruling polity intends to transform the state and society. From the above discussion, conflict can be viewed as a struggle over unequal distribution of resources between individuals and collectivities (social classes, urban versus rural, high-status versus low-status groupings, women versus men) over material or symbolic resources, such as land, state assets, power, status and identity etc. However, a huge fraction of the Nepalese population have been treated as muted subjects and excluded from the polity and deprived of their basic human rights. Such a longstanding and deep-rooted injustice can be resolved if the state provides an inclusive democracy, equal rights and advantages without any discrimination. Such a notion of (inclusive) democracy, as I discussed above, has yet to be established in Nepal.

Although the amended interim constitution declared that democratic restructuring of the state was to be based on federalism, the political stalemate has had negative consequences in the CA, hindering the necessary momentum for a suitable federalist solution. The issue of defining federalism has invited sharp and clear-cut division among the major political parties. Such a conflict-ridden division has led citizens and the international community to question the democratic credentials of the Nepalese political actors. Its failure to establish a culture of constitutionalism has been seen as a serious problem. As I discussed above, based on my readings of influential scholars, federalism is democratic power decentralization. Having said this, I will in the next chapter investigate the content of federalist policies, mainly based on the empirical analysis of the views articulated by a selection of national political leaders from the three main parties. In view of the comprehensive nature of this subject, I have stated in the introduction that I have chosen to focus on their specific notions of how their federal models address the issues of revenue and tax collection, natural resource management and infrastructural development. I will finally attempt to relate my empirical evidence to some of the main Nepal-oriented academic debates about federalism.

4.0 Major Parties on issues of Federalism in (and) context of research literature

Federalism changes the way the power is distributed and the way local power is carried out. It is not devolution or decentralization; it is the creating of a different way of running a country."- Bob Ray.

"*We want a system where there would be a balance of power (devolution of power) and nobody needs to (wait) rely on Kathmandu for education, transfer and justice etc"* – Informant from KYC, Lalitpur.

4.1 Introduction

This chapter investigates the concept of federalism, mainly through the imperial analysis of the views held on federalism by a few central political leaders from the three major respective political parties NC, UCPN (M) and CPN (UML). As part of my investigation, I will also discuss their opinions in light of their parties' official policies (formulated in their party manifestos), both in terms of their basic models of federalism and their specific policies on natural resource management (NRM), infrastructure and tax collection. I will then discuss my key findings in context of important research-based literature and other selected secondary sources.

4.2 Federalism – A Confused Issue?

After the historic moment of 2006, the alliances of Seven Parties, the House of Representatives and CPN (M) formed a committee to draft an interim constitution that was promulgated in January 2007, replacing the 1990 constitution. The interim constitution declared Nepal to be a secular state with the promise of inclusive restructuring. However, the major political parties were busy with power struggles rather than dedicated to fulfilling the mandate given by the people (Dahal, 2010: 79 - 80). This resulted into confrontations and protests in the streets of the far-flung Madesh region[33]. Likewise, certain indigenous groups and organizations throughout the country rose up against the new constitution, demanding that the right to self-determination and federalism be amended into the constitution. The massive protests in Madesh and among

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[33]Madesh Region – Another name for the Terai or Plain region of Nepal.

indigenous communities forced the former government to amend the constitution within two months of its promulgation in March 2007. Although Nepal became a secular, federal state, federalism itself was often publicly declared to be an invitation for communal strife and national disintegration. Anti-federalist supporters voiced most of this criticism, but some political leaders from mainstream parties who deeply believe in the traditional status quo of HC dominant values, also voiced their concerns. These anti-federalists may fear that new forms of governance might terminate their monopolization over state resources. Some people are genuinely afraid that the country might get disintegrated since the federalists have not been able to teach the masses what federalism is and how it works. However, there are also prominent Nepalese and foreign intellectuals who see problems with identity-based federalism. These critics of identity-based federalism models hold that giving special rights (*Agradhikar*) to certain ethnic groups at the expense of other ethnic groups and High castes will trigger and then institutionalize conflict. They also argue that more attention should be given to the economic viability of each state and for equal (as far as possible) access to natural resources, and therefore careful attention has to be given to population distribution, natural resource allocation (watersheds, hydropower, land and forest etc.) and revenue creation. Here I quote some of the anti federalist views:

Us vs. them ethno-chauvinism is drowning out moderate, sane and rational voices. The mountain people are not warm until the plain people make quilts for them. Any political arrangement that overlooks this heterogeneous harmony and interdependence among Nepalese will lead us to tragedy[34]. (Saurav Dhakal)

"I severely disagree with federalism. Nepal is a small country with approximately 30 million people. Why do we need federalism? I am not able to digest the idea of dividing a small country into different pieces. For example, India has a state called 'Bihar', which has18 million people, and residing harmoniously without any disintegration. But Nepal is heading towards disintegration[35]". Advocate Bal Krishna Neupane (In an interview on national television in Nepal.)

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[34]http://www.nepalitimes.com/issue/2012/05/04/ThisIsIt/19260
[35] http://www.kiratisaathi.com/video.php?id=862

As expressed earlier, I was encouraged by my supervisor to include a focus on some specific policy areas, so that I could grapple with some real policy issues requiring very concrete solutions which address Nepal's social demography, and extreme variations in terms of ecology and natural resources, urbanization and current infrastructure[36]. During fieldwork in the middle of 2010, my informants acknowledged that far too little work has been done on developing the issue of federalism as it relates to the tax system, infrastructure and NRM. After the creation of the Federal Democratic Republic of Nepal, political and state actors have not rationally discussed these kinds of issues. Rather, most of the focus has remained on power. Despite federalism being an age-old agenda of the left-wing parties in Nepal, after the armed conflict it moved to the forefront of the interconnected issues of democracy, human rights and central and local governance. My research questions, presented earlier, are as follows:

1) How do the federalists policies of CPN (M), NC and CPN (UML) differ- and do they deal with practical solutions to the division of labor between the center and federations in the areas of ownership of NRM, revenue and tax etc?

2) 2) In the research-based literature on federal models from different parts of the world, some models have been said to be more relevant than others for Nepal; what could be important criteria of relevancy? This chapter aims to start answering these questions.

4.2.1 Contested Discourse

Federalism is presently an immensely contested issue in mainstream political discourse in Nepal. The pressuring question is: what kind of federal model is most suitable for Nepal? Some smaller

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[36] During a field visit, my informant disclosed to me that the total population of indigenous people in Limbuwan province is 63%. However the majority dominant caste covers 34%. In proposed Limbuwan province Limbus constitute 25.98%. The composition of castes and ethnic groups according to nine districts of Limbuwan, Limbus are majority in districts like Panchthar, Terathum and Taplijung that covers 40.33%, 35.38% and 41.75% whereas Bahun, Chhetri and Untouchable are minority in these three districts. Similarly, Bahuns are in majority in Illam, Jhapa, and Sunsari having 15.14%, 25.07%, and 7.94 respectively. Finally Chhetris are majority in Morang and Sankhuwasabha districts 13.04%, 19.43% respectively. For more details see: http://cbs.gov.no/wp-content/uploads/2012/Population/Caste%20Ethnicity%20Population.pdf

political groups have taken the rhetoric of self-determination to the extreme and demanded secessionism – complete independence as a small state. This is the case with Limbuwan, Magarat, and Tharuwan etc. Others would like to see ethnic federal states existing within a federal union. These states are named after major ethnic groups, such as Limbuwan etc., even though they do not constitute numerical majorities. But with redrawn boundaries these new federal units will include more people from these ethnic constituencies. Others argue for a diversity of federal units, some based on identity and other federal unions based on natural geography and other relevant economic criteria. This is the case with Madesh (*Ek Madesh Ek Pradesh*). Others reject federalism altogether and simply want a properly decentralized system of government and an intact unitary state. Some are even patiently waiting for the forthcoming constitution and state restructuring without definite opinions on these tricky issues of governance. Thus, there have been multifaceted views in public as well as the political sphere in Nepal regarding federalism and local governance.

4.3 Decentralization According to the Empirical Cases of Party Manifestos

The major parties' manifestos describe different federal structures as well as different tiers of government. Nepali Congress (2011:7) and CPN (UML) (2009:112) have mentioned a three tier government whereas UCPN (M) (2011:32) has a four tier government. While explaining decentralization, the major party 'mentioned decentralization', but said that it would be determined by the forth coming constitution written in their manifestos UCPN (M) (2011: 32), NC (2011: 7) and CPN (UML) (2009:112). Moreover, the centralized policy on tax and NRM of (NC, 2011:7), (CPN (UML), 2009:116) and (UCPN (M), have made it difficult to figure out the structure of decentralization from their respective manifestos. Only general power or management rights have given to provincial and local levels, such as land management, forest management etc (NC, 2011:8).

While decentralization and federalism(s) are interlinked in certain respects, they are also to some degree different issues. In my assessment, Padam Prasad Khatiwada is instructive on this point. He argues that decentralization can exist either in a unitary state system or in a federal system, but federalism cannot exist within a unitary state system (Khatiwada, 2007). The nature of federalism is such that it institutionalizes the decentralization of power in local bodies (within its

specific central-local governance structures). There are currently twenty four countries in the world with federal systems, which are built on various system of governance[37].

In Nepal, decentralization of power and local governance has been sought and established over the last two decades. The basic premise of the 1990 constitution was to develop the decentralization of power and the governance system. So, it passed two acts: the Village Development Committee, District Development Committee and Municipality act in 1991 and Local Self Governance Act (LSGA) in 1999[38]. Dwarika N. Dhungel argues that according to LSGA, it has guaranteed the participation of women and weaker groups in local bodies to nominate and choose altogether six members. It has further endorsed and emphasized representation of these groups at the higher and executive levels of village council and district council (Dhungel, 2004: 18). However, my informant, a Janajati Activist from Kirat Yakthung Chumlung, Illam, in an interview in his shop on a rainy day disclosed me that such acts have remained on paper only. "*Within 49 VDCs, including Illam Municipality, there are only three indigenous members working as a VDC chair person. After the democratic movement, let us say approximately 10 people might have increased, however in the policy and decision making level there is still a monopoly of them. Recently the government hired people on a contract basis but our people did not come what we can see our people - working as 'Peon'. Thus, I still emphasize on inclusive policy and program for the population. The saddest thing is that this program and policy has not been implemented yet.*"

Decentralization can be implemented if people participate directly in governance processes (program) and certain people are allowed into this decision making process. Any government is legitimate and lawful if it values the representation of all citizens, and allows the public to reason on its policy and distribute power. A virtue of democracy is that it can treat all citizens as equals (Bleie and Dahal, 2010:2). Here, participation means the involvement of all people, may it be through organizations representing weaker and marginalized groups and ethnic groups, gender etc or any religious/social community or development community. In Nepal, many civil societies (non-government organizations) have been working on different programs at the local level, as recognized by LSGA (Dhungel, 2004: 8). While preparing the relevant planning for management

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[37]http://www.forumfed.org/en/federalism/by_country/index.php).
[38]http://www.nepaldemocracy.org/institutions/concept_decentralization.htm

of any program VDC, DDC and even the municipality are required to coordinate with such civil societies or NGOs. Besides this, the local body has to encourage NGOs to participate in identifying local needs during the processes of planning, implementation, monitoring and supervision. In the case of disagreement over proposals and programs, the National Planning Commission has to mediate between the parties (ibid). As scholar Durga P. Paudyal argues[39]: Although the LSGA of 1999 has a broad organizational structure with the ability of devolution of power, it was not properly implemented due to unhealthy competition among donor agencies and a big rift between major political parties at the local level. Here my informant from KYC, Lalitpur, illustrates her own case of how local political members influence the people and are corrupt. In her locality, they did not have a sewerage system operated by the municipality, so they had to rely on their own store tank. The ward office tried its best for a few years to get money from municipality and donor agencies, but their efforts went in vain. Their ward office and its members are still in the grip of CPN (UML) members. The members organized a meeting in the ward office as each household had to contribute 10,000 NRs, with a certain contribution from ward office. The sewerage pipe was laid out in the presence of these members. However, at the end some members from Nepali Congress and Rasitya Prajatantra Party (National Democratic Party) accused them of corruption. She told me that anyone could express doubt with this project, as the expenses they put in and the contribution from the municipality never showed up. Thus, such political members from mainstream parties play a vital role in any program as well as in elections.

The 1990 constitution affirms people as sovereign but it does not delegate power to people in governance and decision-making. All powers, even those that effect people, are given to the executive body (NPC). Mahendra Lawoti argues that the constitution itself was a foundation of crisis of governance in the sense that there was a strong centralization of power in one branch of government (executive body) (Lawoti, 2005: 139). Devolution is possible if the center is strong enough in terms of resources and ready to share and redistribute power and resources. But in Nepal, its center is signified by weak governance, power-sharing and incapable institutional frameworks as well as a weak decision-making process (Lawoti, 2005: 140). The government cannot make any decisions without the support of international donor agencies. Secondly,

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[39]http://www.nepaldemocracy.org/institutions/concept_decentralization.htm

decentralization until now has been dependent on donor-supported programs at the local level. However, a system of governance for equal development is needed that addresses heterogeneity in Nepal. Thus, the current policy of decentralization is not appropriate and effective for the development of Nepal due to its entrenched patronage system and corruption. Federalism has been upheld as the only possible alternative that may solve peoples' aspiration for power sharing, local democracy and sustainable development.

However, having said this I want to review some of the central arguments by a few scholars that I find useful for this discussion. An important scholar Lawoti argues that federalism is a structural apparatus for the separation of power between the center and states/regions (Lawoti, 2005:229). However, the constitution plays a vital role in guaranteeing the division of power between the center and the states. Usually, the center keeps jurisdictions over foreign affairs, defense and monetary policies, and the rest of the policy areas and jurisdictions can be given to the provinces/regions (ibid). While analyzing major parties manifestos of the Nepali Congress (2011:7), NCP (UML) (2009: 116) and UCPN (M) (2011: 129) have an interest in keeping such issues under center. However, taxation rights have not been given to provinces or regions as in many other federated countries in the world (ibid), as scholars point out. The parties have control over the centralized policy of taxation and NRM etc, which I will be analyzing next. Federalism is a system that has the potential to recognize multiple diversities that are identity-based, while also ensuring the common interests of all citizens. As stated, I now analyze the federalist polices of selected national political leaders from the three major political parties. My main focus is their practical solutions to the question of ownership of NRM, revenue and tax etc between the center and federations.

4.4 Federalism as Seen by Three Central Members from the Major Parties.

I approach this topic through in-depth interviews with three leading party members who hold central positions in NC, CPN (UML) and UNCP (M). In order to facilitate an informal and open sharing of opinions, I deliberately conducted the interviews in secluded and informal settings. As explained in greater detail in my methodology chapter, I selected these three prominent politicians on the basis of their competency and knowledge on this issue. The NC politician is a central member of her party, as well as a prominent parliamentarian. This female politician was

very hard to get hold of. As I have explained further in my methodological chapter, due to the political crisis in June-July 2010, my interview with this NC politician was postponed a few times. Because of the crisis, she promised that she would call me at some point to arrange an interview. After a few cancellations at short notice, I finally got the opportunity to meet her when I received a call to come immediately to her newly built residence on the outskirts of the capital. We had our interview while having tea in her meeting hall. While talking about federalism, she argued: "It is a question of providing justice for the whole people of Nepal" and she doubted the necessity of the federalist agenda and how it had emerged. Although we were continuously disturbed by phone calls, and she even lost the "thread" of her argument on occasion, we proceeded with our interview. Firstly, she acknowledged that at present the state was a unitary, feudal centralized system (mechanism) and secondly, that the unequal distribution of state resources was mostly enjoyed "by a handful of the definite social class" (*Mutthibharko Barga*) at the expense of other social groups (who have been displaced in terms of ownership and influence over the last 250 years). Due to this, many from the excluded social classes found the state discriminatory towards them. People feel that they are outcasted and deprived of basic human rights. As a result, she argued that through the insurgency led by CPN (M), the public demanded a 'democratic republic' and 'state restructuring', which was agreed in CPA 2006. While the democratic republic was established, the process of state restructuring is still very much going on. As a matter of fact, she said, "this is much disputed and contested too". In the course of the interview session she argued that for federalism we have five development regions and seventy-five districts. However, she continued, *"The state has to have a policy of creating ample opportunities for its citizens so that they could consume according to their capacity and contribute to nation building. The accountability of state, quality of services towards its people and power devolution are the key elements for a successful nation state and this is more important than the number of provinces. Therefore, the state has to have proper management for its citizens so that they can contribute in the state (nation) building project."* Towards the end of the interview, after we had been drinking two cups of tea and eating biscuits, she leaned forward and said reassuringly: "*The end of the politics is to find a critical balance*". She looked thoughtfully and argued *"An effective state's policy is more important than the number of provinces in federalism"* .In a way of an analogy; she said that the state should be as effective as a functional nuclear family. It is interesting that she places the policies of redistribution and

accountability as key factors to make people contribute to nation building and for building trust within institutions. According to NC manifesto, it has six geographical provinces (Prastabit Nepalko Sambidhan Sanchipta Ruprekha, 2011)[40]. This issue became more critical in 2012 as the deadline (May 27th) for the third (last) extension of the CA came nearer. In this phase her party's position was 7 provinces[41], without naming them.

I now shift to a brief description of my interview with UCPN (M), who is a prominent representative and politburo member. I met him in his rented office in Patan (London Guest House), a prominent historical town of Nepal. He initially called me into his *Singha Durbar* office. But due to the long administrative procedures, he called me into his rented office. He was a very articulate man. He responded to my initial question 'why do we need federalism?' by stating that federalism is needed to decentralize and delegate power from the bottom to the top, as well as from the top to the bottom. In other words, the power has to be divided into 14, 12 or whatever number of provinces, so that people have 'a say' and the freedom of expression on national interests and about their wellbeing. This is (was) possible only through conflict. According to its manifesto UCPN (M) has advocated 12 provinces according to ethnic, caste, linguist and regional bases (2011:32)[42]. However, when the deadline of CA approached, the party declared 10 federal provinces according to ethnic (identity) criteria, which NC and CPN (UML) had both severely opposed as this was not in line with the understanding agreed at the high level meeting at the Hattiban Resort[43]. Moreover, this politician argued: "*Federalism is a process of national liberation. Those who are not ready to accept federalism and democracy will not accept the process of national liberation either*". (*Sanghiyata rasitya sodhintalko prakriya ho. Jasle Sanghiyatalai swikargardina usle le rasitya sodhintalai pani swikar gardina*). He leaned back and said; "As Nepal is a semi-colonial country, power (is) was centralized in one place. Other external forces have misused this situation, that's why unequal treaties and agreement took place in the past. In the past power was centralized within with Monarchy and

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[40]Karnli Pradesh (Province), Gandaki Province, Lumbani Province, Sagarmatha province, Simraungadh Province and Srijunga Province

[41]http://www.myrepublica.com/portal/index.php?action=news_details&news_id=34377(Posted-on- 2012-04-28 00:00:01)

[42] Khaptad Province, Karnali Province, Lumbini- Abadh-Tharuwan, Magarat, Bhote Lama, Tamuwan, Newa, Tamsaling, Mithala Bhojpura Koch, Kirat, Sherpa,Limbuwann,

[43]http://e.myrepublica.com/component/flippingbook/book/866-republica-27-april-2012/1-republica.html (Posted on- 2012-04-26)

Ranas. In the aftermath of democracy power was centered with the Prime Minister. Such a situation led to Nepal being changed into a pseudo-colony of India."He paused and said; "*So that is why the state has to be inclusive, but proportionally inclusive*". He went on to stress Indian dominance over Nepal's internal affairs, and especially in security matters, big business and transit agreements. He exclaimed: "*These issues do not provide the opportunity for real independence but for a life as a parasite instead!*"The agreement he specifically referred to was the Indo-Nepal Peace and Friendship Treaty of 1950[44] (See Bhatta, 2008: 88)[45]. He argued in this way -In the mean time when sharing of state power of CA[46]under State Restructuring Committee finalized a report that recommended the creation of 14 provinces, 23 autonomous regions and an unspecified number of special and protective areas based on the primary criterion of identity and secondary criterion of capacity for decentralization of power to local and federal bodies[47]. A group of CA members from UML and NC protested, arguing that the state restructuring was wrong. They said it will bring the disintegration of the nation. He expressed his sadness about this as he said: *"Such views and notions do not have any reason and logic. The constitution can be written if the nationalist forces unite, rejecting the south-block mindset"*. In his party the leaders are divided – the leaders of Bahun and Chhetri origins are openly against identity and linguistic divisions whereas leaders from indigenous groups univocally support the recommendation of State Restructuring Committee.

I will now turn to a brief description of my third interviewee, a prominent politician from the CPN (UML). This person is a central member of this party. I met this man in the office called Centre for Constitutional Dialogue (CCD) prior to a book inauguration program and discussion. My informant, who I was introduced to by a member of KYC during a workshop, fixed the time a day earlier for this place. We chose a silent corner for the interview as it was occupied due to the program. He acknowledged that federalism is indeed needed in order to control the center as

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[44]The author expressed that this was a classic example of signing such agreement with outgoing representative of Rana regime with India, merely to save the government and personal interest.

[45]http://ramkshrestha.wordpress.com/2011/01/28/nepal-india-peace-and-friendship-treaty-31-july-1950/ (I could only access this agreement in this BlogSpot)

[46]http://www.gorkhapatra.org.np/rising.detail.php?article_id=30471&cat_id=4

[47] 14 Provinces from CA- Limbuwan, Kirat, Sherpa, Mithala-Bhojpura- Koch, Madesh, Newa, Tamsaling, Narayani, Tamuwan, Magarat, Jadan, Karnali, Khaptad, Lumbini- Abadh-Tharuwan.

well as dismantle the Hindu state where laws are guided by Hindu religion based on *Manusmriti*[48]. For the sake of decentralization, only general power was given in the past. Thus, oppressed groups rebelled. He looked at me with conviction as he said: "*CPN (UML) is committed to federalism.*"At the party's 8[th]National Convention Meeting he explained that "due to diverse social classes and feelings expressed by the peoples' movement the governance of the state would be based on federalism with power decentralization. Thus, Nepal would be based on ethnic, caste, linguistic and region based federalism (2009: 114)." But this standpoint is a contested one within the party, as he admitted during the interview. He explained that the lines of dissent are mainly between cadres who are led by high caste leaders and others led by a leader of *Janajati* background. Those who are led by the HC leaders' do not favor federalism according to ethnicity, caste, language and region. Therefore the indigenous groups disagree with this federalist standpoint. The Maoist supporters of an ethnic identity model of federalism (he belongs to this fraction) argue that "*these castes, within their own party, naturally do not want to share power with IPs, Madeshi, Dalits and women.*"He said, "*This is not just in my party but in every party in Nepal. Everybody knows they have a monopoly in mainstream politics.*"He concluded by arguing that, "In other words, center-guided democracy became unsuccessful. So, in order to include those people, federalism is needed in Nepal." After the dissolution of historic CA, a huge rift has been seen between the dissident *Janajati*, Madeshi leaders and HC leaders in the party who demanded single identity base federalism and restoration of CA. The dissident leaders condemned the party when it proposed seven multi ethnic identities based federalism, which created the clear cut rift and polarization of Nepalese politics[49].

4.5 Federalism and Democracy

Let me now go a step further and relate the above presentation and discussion of the views of my influential informants to core issues in the scholarly debate on democracy, human rights and federalism. Lijphart argues that the main objective of federalism is to save and promote a

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[48]See -The Laws of Manu – http://www.sacred-texts.com/hin/manu.htm

[49]http://www.ekantipur.com/the-kathmandu-post/2012/09/03/top-story/party-bows-down-to-ensure-janajatis-rights/239178.html (Kirat Limbuwan - Koshi, Tamsaling Newa – Bagmati, Magarat Tamuwan Gandaki, Bheri Karnali, Seti Mahakali, Mithila Bhojpura- Janakpur and Tharuhat Abadh- Lumbini) (Posted on- 2012-09-04 08:19)

decentralized system of government (1999:4). As I explained above, Nepal sought to institutionalize a decentralization policy, but national policy makers and their international partners failed to undertake this practice. In the interviews, two of my informants from CPN (UML) and UCPN (M) responded that federalism is the preferred democratic model for the decentralization of power and has to devolve to either 12 or 14 provinces. Decentralization is as I have argued earlier, the ideal norm of democracy for peoples' participation. As explained above, (and as is advised by the National Planning Commission/NPC) *Singha Durbar* (the central level government) has not yet been capable of having an action-oriented commitment to decentralization. However, NPC suggested that such an age-old framework has to be changed by making local institutions autonomous, developing and enhancing the institutional capacity of local bodies in order to enable them to deliver services to the people and to function responsibly, making local bodies capable of mobilizing resources and finally increasing local people's participation in the local development process[50]. It seems to me that this policy is in line with Nobel laureate Sir Arthur Lewis argument: the basic theory of democracy is that all who are affected by a decision should have chance to participate in making that decision either directly or through a chosen representative (Lijphart ,1999:31). Having said this, the opinion from NC was that it stood for the geographical division of the state through only six or seven provinces. My informant further emphasized that power decentralization along with accountability of the state which as such is not the demand of excluded and marginalized socio-cultural groups in Nepal. Even the unitary state system of Norway has some sort of federated system granting autonomy for its Sami indigenous groups with respect to their identity, culture, tradition and history (2011:105). Having made these more general observations of how some of my informants' views speak to certain scholarly positions on democratic governance, I shall continue to a more specific discussion of some of my key findings based on an analysis of my respondents' interviews.

My informant from UCPN (M) stressed that federalism is "a must" in Nepal in order to address deep-rooted inequality, exclusion and discrimination in terms of ethnicity, caste and gender etc. He used the metaphor of racing horses to explain how such gaps were created in Nepal: "*One group has already reached the winning line while others are left behind. To bring such people to the line, authority and special rights have to be given. If he/she could be empowered within a*

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[50]http://www.npc.gov.np/uploads/plans/20081228123305.pdf

certain period with this special authority (right), only then could IPs reach the same level… If you examine the present condition you will find differentiation in education, the Human Development Index and economy too. Nobody can come in free competition, even if it has been said they can. For instance: Let us take females, you can see their situation as having no rights to education or right over family heritage. Therefore that is why special rights should be given to females until they obtain equality with their male counterparts." I find his statement interesting when considering it in relation to recent development reports on Nepal by the Asian Development Bank (ADB, 2009). The report concludes that the level of inequality and frequency of poverty is higher among ethnic minorities like Limbus, Magars and Tharus and the lower castes, due to the impact of state exclusion. The study (report) further argues that ethnic-based inequality for castes deteriorated from 1995/96 to 2003/04. According to the Human Development Index (2007/2008) Nepal ranks lowest in South Asia and is 142 out of 177 countries in the world in terms of social welfare (ADB, 2009: 65-70).

Turing to the interview with the NC central member, she interestingly made a comment regarding the movement of 062\063 which demanded "democratic republic and state restructuring." She characterized this as *"an extraordinary people's movement."* She emphasized the issue of 'inclusiveness'. She said: "*We have been talking to make Nepal just, inclusiveness and peaceful. You know if it is not inclusive it cannot be peaceful... We have to balance all these diversities.*" The report further argues that inclusiveness is the fourth pillar of Nepal's Poverty Reduction Strategy Paper and 10th plan. However, exclusion has remained as a major obstacle to overcome to achieve country's development objectives. Thus, growth and development is possible if it is inclusive, and all members of society take part and contribute to growth and development on an equal basis irrespective of ethnicity, geographical location and castes (ibid). It has been a challenge to dissect her notions of extraordinary people and balancing diversities. One clue might be found in her small parable explaining the link between poverty reductions and removing discrimination: "*If there is enough food for 100 people but there are 500 people, what could be done with the situation? 100 people are satisfied and 400 people the state can be less discriminative; how can we make the state less discriminative*." Several scholars have found that High-caste Hindu values (ethos) hinder inclusion and slow down social progress (cf. Gurung, 2007:48 – 49; Bista: 1991: 8-9).

I will in this section consider the informants' specific responses to my questions on their views on how federalism solves deep-rooted inequality, exclusion and discrimination. Primarily, it is quite challenging to pinpoint their exact standpoint on federalism. When the date of the constitution submission approached, their standpoint on federalism focused on the issue of federal units. Thus, the issue of federalism (state restructuring) is contested in Nepal but yet a necessary system of governance.

While examining these interviews I found it quite difficult to analyze my informants' views. Indeed, my informant from NC strongly emphasized inclusiveness and balancing diversities. This became the main agenda for all the political parties (even to CPN (UML) and UCPN (M)) but remained on paper and lip service only, as even her own party is not yet truly inclusive. My informant from NEFIN said that '*Samabasi Bhanne rakhe tara Bahiskaran Garirakhne'*, meaning that in practice they keep on excluding even thought they say that they are including. Thus, while analyzing my informants' responses it seems to me that such issues are rhetoric only. As I explained above, there is no doubt that there has been widespread exclusion and inequality in terms of caste, ethnicity and gender etc. Even providing or granting special rights to such groups will not solve the issue, as the members of these groups have intention of taking privileges for themselves. The issue of special rights (reservations, Quota) came into existence to redress historical injustices, which contradicts the notion of democracy that all citizens are equal before law. While giving special rights to certain groups may help to uplift their socio-economic position, but this may trigger conflict again as members from non ethnic minorities have also been deprived and excluded of basic human rights. Thus, the issue of special rights can be overcome if the state adopts a policy of redistribution, as my informant from NC stated. The policy of redistribution is connected to negative and positive rights according to the democratic principles that I explained in the theory chapter. I will now move onto policies on tax, NRM and development.

4.6 Policies on Tax, NRM, Development and Infrastructure.

I investigated these specific issues and their relationship to federalism as argued by the interviewed political leaders, while also looking at how well their views fell in line with their respective parties' policies on these specific issues. In analyzing the responses, I tried to systematically identify the main argumentative elements in their responses, as the basis for an

analysis of the explicit responses, the level of concreteness in my respondents' responses and the gaps and silences in their responses.

During the interview session with the NC politician on her views and her party's policies on these issues, she told me that these issues had been given full attention to by the center even in the manifesto it has centralize policy (2011: 7). Unlike this position, my informant from CPN (UML) revealed to me that even if these are extensive issues, his party had regrettably submitted their positions in the CA with less than needed research. In the interview, he recalled how the 14 province model policy had been passed[51] (14 models province[52]) on. Summing up, he said, with a streak of cynicism, the decision to go for 14 provinces was mainly politically motivated. It had been calculated that the borders could be drawn so as to ensure a solid vote during elections. Though not underlined by the interviewed leader, the same can arguably be said about their 7-province model. Besides the NC leader, both leaders from CPN (UML) and UCPN (M) urged me to study their draft policies as their time with me was limited. According to my own analysis of their respective policies, the leading parties seem to be mostly interested in ensuring their voter bases and sharing power between the executive power, legislative power and the juridical institutions. Similarly, they appear to have all agreed that the center government should control foreign policy, currency, national security, airways, international trade, monetary policy, central bank, land policy, hydro power sector, national highways, customs and issues of national interest etc. On the issue of identity-based federalism, UCPN (M) is more consistent and comprehensive in its federal policy, yet importantly, there are also different positions held within this huge and torn party on this issue, as I have earlier explained. Now, I will turn my attention to these specific policy areas in greater details, starting with NC federal draft policy.

4.6.1 NC leader and federal Policy Areas.

My informant was most concerned with a recent policy paper that deals with these specific issues. She told me that an Economic Commission of experts should be formed for redistribution of resources (Prastib Nepal ko Sambidhan, 2011). According to NC's policy, the federal (central)

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[51]http://archives.myrepublica.com/portal/index.php?action=news_details&news_id=14563(Posted - on - 2010-01-28)
[52]Limbuwan, Kirat, Sunkoshi, Sherpa, Mithila-Bhojpura-Koch-Madesh, Newa, Tamsaling, Narayani, Tamuwan, Magarat, Jadan, Karnali, Khaptad and Lumbini-Abadh-Tharuwan. (14 provinces passed by State Restructuring Committee).

government should have authority to collect custom tax, VAT, income tax and revenue collection etc (2011:7). The Economic Commission will properly distribute these collected taxes between the center and the regions. Land as well as house tax, automobile registration and another source of revenues would be under the jurisdiction of regions and local governments. For the construction of physical infrastructure, the regional government will have the right to mobilize loans. NC has the policy of protecting the rights of IPs, Madeshi, and Dalit, female and backward communities. In addition to this, NC has the policy of proportional representation in provincial governments but in the case of NRM the state will by the forth-coming constitution.

4.6.2 CPN (UML) Views on Federal Policy

As I have already commented, no adequate research was done before the submission of standpoints in CA, though a solid left-leaning faction of the party often forms alliances with UCPN (M) over critical political issues, including federalism. However, my informant underlined that CPN (UML) proposes that key sectors like defense, monetary policies and foreign policy, have to be handled by the central government. But other sectors or cross-sectorial issues like NRM, labor and infrastructure have to be managed by the provinces. According to my informant, his party, to some extent, has valued the provisions of Convention 169, but the paradox is that in reality the party is not endorsing linguistic ethnic autonomy, "but just in name only".

 The 8th Convention meeting (2009:116), held in Butwal passed several key policies on state restructuring, including federalism. According to its nature of social characteristics\specificity, the convention had expressed that the state of Nepal will have a federal system based on clear-cut decentralization and the autonomy of provinces and local bodies vis-à-vis the center. This decentralization will be guaranteed by the constitution (2009:111- 114). In this way, Nepal will be a sovereign, indivisible, secular state based on ethnic, linguistic, cultural and provincial autonomy. This will guarantee the role and participation of all classes and marginalized groups. While decentralizing the center's power (2009: 116), national security, foreign policy, central bank (finance) infrastructure, development etc. will still be under the domain of the center. The provincial government will have the authority of a legislative parliament. It will have authority on public security, business, industry, management of labor, infrastructure, NRM as well as land. The local bodies will have authority in construction/protection of local infrastructure, NRM

management, local tax, local developmental plan etc. However such promises were turned down when this party came up on 7 provincial structures before the promulgation of constitution. It further evokes that the right to self-determination will be given according to ILO 169 but not for secession (2009:118).

4.6.3 UCPN (M) Federal Policy

Examining the draft policy of UCPN (M), what strikes me is the prominence of its position on the contested issue of the number of federal units and their borders (Jantako Sanghiya Ganatantra Nepalko Sambidhan, 2011). In its constitution, it has divided Nepal into 12 autonomous regions[53] according to linguistic, caste, ethnicity and regions (2011:127). Regarding their identity, guaranteed autonomy and sub-autonomy will be ensured in provincial, local and special areas (2011: 32). The state has ownership of all NRM (2011: 29), which NC and CPN (UML) had not disclosed. This is a very critical point that I would like to comment further on. Any country or state is developed if it utilizes its natural resources properly. The issue of equal distribution of NRM or bio-diversity is a contested issue worldwide. According to the Treaty on Bio-Diversity from 1992, to which Nepal is a state party[54], the state has the sovereign right to manage and protect bio-diversity (NRM). However, there has to be consent or agreement from a third party if the state wants to open up the access for NRM. It further states that the profit or income from such NRM has to be according to agreements that involve indigenous peoples (IPs). Prior to any agreement from such stakeholders, the state has to consult IPs. The manifesto has drawn clear-cut duties and rights among provinces, local areas and special autonomies. The province or state parliament can formulate its laws on management at the provincial level when it comes to hydro powers, business, airways, banking sectors and securities issues etc. (2011: 131-136). It has further given rights to the provincial legislative bodies to formulate their own constitutions (laws)while respecting the federal constitution on key issues like family, medicine, pesticides, social security (2011: 133; 2011: 3-4 and 35) etc. A provincial government will have judiciary, legislative and executive rights according to the proposed federal law. The rights of the local level (bodies) according to this draft constitution will be in basic health services, agriculture issues, old home management, primary education, etc (2011: 135) . It can formulate

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[53]Khaptad, Karnali, Magarat, Lumbini- Abdhad- Tharuwan, Tamuwan, Tamsaling, Mitila-Bhojpura, Koch, Madesh, Sherpa,Limbuwan, Kirat. UCPN (M).
[54]http://www.forestrynepal.org/publications/national-report/4300

essential law (ibid).If a formulated law clashes with the local body's law, the provincial law would be deactivated. The elected legislative local body will have executive and judiciary rights. There will be the prior right to self determination for IPs while implementing any investment (project). IPs, Madeshi and other suppressed group will have the right to self-determination against any marginalization. Laws will be made for this. However such rights must not affect the sovereignty of the nation (2011: 38).

4. 7 Short Comparative Analysis of Federalist Models and Policies

All the major parties endorse a centralized policy in infrastructure development, land policy, defense, monetary policies, foreign polices as well as taxation. But importantly, responsibility for management of land and forest (NRM) as well as house and automobile tax collection is, according to UCPN (M), to be managed by either provincial or local bodies. Every citizen has rights to use natural resources; however the level of utilization would be determined by the forth coming constitution. According to the proposed federal policies, the major parties are committed to federalisms but in different ways. When defining federalism, NC has proposed 7 geographical (regional) provinces, based on democratic power decentralization. If I compare the policies of NC and CPN (UML) with UCPN (M), the latter is more comprehensive in its identity-based federalism than the two other parties. The Maoist party is much more committed to providing guaranteed autonomy and sub-autonomy at the provincial level than NC (2011: 32). In its draft constitution, UCPN (M) guarantees extended local self-governance for special areas. Similarly, it is more flexible than both NC and CPN (UML) in giving freedom for the formulation of own laws and constitutions according to the federal constitution, on the mentioned policy categories, within an autonomous state, which will be done by forthcoming constitution (2009: 131). It has provided the right to self-determination to IPs while implementing any investments for development and growth.

Now, I shall turn my attention to the models of federalism, and what can be discerned from the party's' manifestos. All the major parties have defined their own federal criteria (models) in their manifestos. According to NC, it is committed to a democratic republican state, with autonomous regions forming this union. NC's main criteria for forming regions are national integrity, geographical location, economic viability, ethnic and cultural numbers, population, administrative viability, interrelationship of provinces etc. According to the party manifesto, it

intends to form a three-tier government with central, regional and local levels[55] as well as 6 federal units based on regional and economic viability (Prastibit Nepalko Sambidhan: 2011)[56]. However, due to massive criticism, NC changed its federalist policy in a secret deal in a much debated meeting in Kathmandu (at the Hattiban Resort).In its new model, it has proposed 7units for restructuring the state on the basis of regional interdependency, economic viability, geographic proximity and convenience and population bases[57]. However it has decided to leave the naming of these units to the CA.

CPN (UML) has argued that Nepal would be an independent, indivisible, sovereign, secular, inclusive multi-ethnic nation. Forming the autonomous regions units will be based on geographical location, administrative as well as NRM feasibility, density of population, economic viability, historical, ethnic, linguistic and cultural denseness (2009: 111- 112).The names of the units should be based on ethnic, linguistic and culturally indivisible factors (2009:114). In my interview with its member, they did not mention the exact number of states, but rather that the State Restructuring Committee has to decide on this during its future federal mission. Although this party emphasized 'racial equity', the reality is different as I explained above. When the date for submission to the constitution approached, the party did not take the stance that it was committed to before[58].

While UCPN (M) has critiqued the unitary nature of the oppressive Hindu state, the party wants to transform the state by the formation of 12 autonomous units according to ethnic, caste, linguistic and regions (2011:32). It had earlier favored14 province models. However, when the deadline of CA approached, the party came up with 10 units on the basis of ethnic identity. The

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[55]http://khumbahadurkhadka.com/index.php?did=party_manifesto

[56]Karnali, Gandaki, Sagarmatha, Srijunga, Lumbini Bhawar and Simraungadh- Janakpur. NC Model of federal state.

[57]http://e.myrepublica.com/component/flippingbook/book/867-republica-28-april-2012/1-republica.html

[58]http://myrepublica.com/portal/index.php/twb/?action=news_details&news_id=41066Kirant-Limbuwan-Koshi, Mithila-Bhojpura-Janakpur, Tamsaling-Newa-Bagmati, Magrat-Tamuwan-Gandaki, Tharuhat-Abadh-Lumbini, Bheri-Karnali and Seti-Mahakali. (Posted on - 2012-09-04 05:00:11)

names have so far not yet been disclosed[59]. According to its manifesto, in the case of modifying the names of the units, the legislative body of the unit as well as the federal legislative body has to have the majority of two thirds votes (2011:32). If there were not a majority of votes from federal units, the provincial unit could go for a referendum. Investigating their manifestos, it became evident that the major parties have defined their own standpoints to ensure their own respective voter advantage, rather than on the common good of developing the nation and the state.

4.8 Federalism Fit for Nepal – Concluding Observations and Findings

I have so far mainly probed into my respondents' views in general on federalism in Nepal and in relation to a few specific and important policy areas. With reference to my fourth research question, I have also made a modest attempt to explore which federal models from different parts of the world has been seen as particularly relevant for Nepal's soil by the country's own scholars and politicians. Most of my informants agreed that they have gained relevant context-based knowledge about the Swiss model of federalism. Despite saying so, they admitted that Nepal should have its own federal structure, uniquely suitable for its peoples.

I have earlier in this chapter attempted to describe and analyze some central lawmakers' mostly different opinions and arguments on federalism and state restructuring. As I have briefly commented upon already, it has been striking to me that not enough rational discussions have taken place among the political actors. Only one of the major political actors has taken full responsibility for educating the public on the key dilemmas of federalism or engages ordinary citizen in a real debate on what kind of governance solution they would like to see from their various local viewpoints as engaged yet to often neglected citizens. Instead, the parties have seen federalism as a tricky policy issue, only fit for discussion among powerful politicians and so-called experts. Major political actors have been preoccupied with shortsighted power struggles, instead of engaging in rational discussions in the CA and with the citizen-based public. My informant's reply from CPN (UML) is quite illustrative: "*When a federal structure comes, we will work (for it -) then we and (the public) will understand it.*"Similarly, intellectuals cum experts have lacked proper understanding of the full implications and preconditions of a

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[59]http://e.myrepublica.com/component/flippingbook/book/867-republica-28-april-2012/1-republica.html

federalist solution as illustrated by my informant from NEFIN: *"If Nepal goes for federalism, we HC who have been living in Kathmandu for the last several generations will be chased away in Khasan Province. So, please do not chase us like this..... Therefore let us not talk with our brothers and sisters who have never seen Kathmandu before."*

It has also been striking that during my work with this thesis, the media have aired news stating that such a new system of governance will disintegrate Nepal and bring communal strife. Thus, federalism and its alternative defining models have not been properly debated in the context of Nepal's specific conditions and needs. Instead, a polarized climate has created unnecessary confusion and hard fronts around the issues of how to define the federal units and how to demarcate borders and give names.

Mahendra Lawoti cites Alfred, Stepan (2001), who argued that federalism would democratize multicultural societies (Lawoti, 2005:231). In my investigation of a research-based federal model, prominent scholars often engage the Swiss model in different ways. Krishna Bahadur Bhattachan refers to Switzerland as the very first country that adopted a territorial federal system on the basis of language and ethnicity (Bhattachan, 2009:2). Likewise, Lawoti too believes that Nepal can find useful lessons in the experience of Swiss federalism, as well as the Belgian one (2005: 230). The author explains that Switzerland has upheld language and religious (cultural) divisions by devoluting power among the 26 cantons. In Swiss federalism, power is divided among the Executive, Judiciary and Legislative (3 tier) functions that have their organs at different levels (Federal Council, Cantonal and the Communal Councils respectively) (2005: 231). The Federal Council, Cantonal Council and Communal Council are at the Executive Level, while the National Council and Council of States are at the Legislative Level. Finally the Federal Supreme Court, Cantonal Court and regional courts are at the Judiciary Level. The election is held on the basis of proportionate rule along with linguistic, religious and political parties divisions. Power is shared from down to top and top to down, which gives opportunities to cultural and religious groups (2005:232). The author further argues that federalism is a device that can provide cultural as well as political autonomy to different socio-cultural groups in a multicultural society (2005:230). In Nepal, while examining relevant criteria and models, the author argues that within any declared or planned federal state/division a great number of Dalits lives dispersed, and that therefore nobody enjoys the status of being a numerical majority. Here,

the author Lawoti again takes Belgian non-territorial federalism as a model for the Dalits (Untouchables). Lok Raj Baral, takes the reference of CPN (M) but he demands different solutions (six based on ethnic federal criteria and three based on territorial criteria)[60].

In the same way, Baral references Sharma (Pitamber Sharma) as saying that Nepal can take insight from the Swiss model of autonomy (self rule) (2009: 15). In other words, the essence of Swiss Federalism is to keep diverse cultures in coexistence by granting autonomy, unlike the American policy of the melting pot. He admits that granting autonomy is the ornament of Swiss model of (federalism) democracy. In this model, sensitive issues such as foreign relations, finance, defense etc are under the federal government. Aside from these key issues, the right to decide on education, health, development and constructions etc is at the local level. Cantons and Communes have the right to take 30 percent of revenue after sending the rest to the federal government. Moreover, the local government has the right to collect income from management of NRM. This means that development takes place at the local level and that they do not have to rely on the federal government. Therefore self-rule or autonomy is only possible through federalism rather than a unitary system. The democratic state is characterized by rule of law and federalism is characterized by the level of autonomy provided for the member of states/province/region/cantons.

I have discussed above the Swiss model of federalism, in terms of power sharing and self-rule. However, Parshuram Tamang has suggested that Indian autonomy within sub autonomy can provide relevant insights for the Nepalese case (2012: 135). He explains that the Indian constitution, Index 6, has systematically established a level of autonomy. An autonomous district council is established in the state/province. He refers to an example of the North East Indian state called Tripura Autonomous District Council. According to the Indian constitution, Tripura state has formed and established autonomous district councils and regional autonomous councils that are called West Tripura, North Tripura, South Tripura and Dhalai District. The constitution has given legislative, executive and judiciary rights to such councils. However, the state/province has control over economic rights and legislative rights. Such autonomy within sub-autonomy can be termed as 'just given' according to the Indian experience of its constitution. However, Nepal can learn from India's experiences in regards to the proposed special areas/structures, where 23 sub-

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[60]http://blogwithpawan.blogspot.com/2010/03/federalism-in-nepal-too-many-models-too.html

autonomous regions are established according to State Restructuring Committee (2012:151). The author analyzes that such a formation of autonomy within a sub- autonomy is quite alike Indian system. Despite this, he emphasizes that there are some weakness, as councils are not fully given control over financial issues and collection of revenues etc. He argues that they should be made independent and autonomous.

4.9 Conclusion

This chapter has presented and discussed federalism according to major political parties along with researched based literature. My informants from the major parties of NC, CPN (UML) and UCP N (M) had the same views as their respective parties. In the interviews, my informants revealed to me their different views on this tricky system of governance (federalism).While investigating; I found that my informants adhere notions of federalism according to their party's policies. But one cannot take for granted that these three informants' views on federalism comply in every aspect with the predominant views of the official party line. Having explained this, there has been dissenting sentiment within these parties regarding this new form of governance, which has divided the *Janajati* leaders and HC leaders. However, my informant from NC, unlike the other two, did not give me a candid view on this new and tricky system of governance. It is rather contested in all the political parties on its stand point in number of federal units when the date of submission approached. This decision was taken in a secret and not in the democratic CA. Although my informants from these political parties admitted to me that their parties are committed to federalism, it is still a matter of contestation. Thus, being politically agreed agenda however contested in different angles which I presented in my discussion.

From the above discussion, my informants agreed on the decentralization of power, but the system of governance was different, as I depicted with illustrations. As I explained, based on my assessment of my informants, federalism institutionalizes decentralization. In other words, it gives opportunities for decision-making processes to the people. Thus, citizens prefer a system that provides services in their own VDCs and ward offices, rather than relying on Kathmandu (the center) to do for them. This kind of policy can result in the country being run in different way. While if it is not autonomous in certain realm it would be just namely given according to Indian experience of sub autonomy. Thus, sovereignty is a prerequisite element for the contribution towards nation building.

As I debated in the theory chapter, the basic premise of nation building according to liberalist theory has been criticized for its deliberate manipulation of different identities and cultural groups and its condoning of a dominant discourse. The likely implication is that various ethnic and other minority groups have to give up their collective identities. However, this can be reconciled with democratic inclusive nation building – forming one common identity with national solidarity and secularism that is connected with state sovereignty. In other words, group rights and individual rights have to be balanced. While there is talk about individual rights, group rights take center stage in Nepal. As Nepal is a state party of ILO 169 and other international conventions, it has a responsibility to recognize collective/group rights as well as the individual human right to development. Thus, in my upcoming chapter I will talk about the current demand for self-rule and its historical context in the case of Limbuwan along with these issues.

CHAPTER FIVE

5.0 Current Demand for Self-Rule and its Historical Context: The Case of Limbuwan

5.1 Introduction

In the previous chapter, I discussed the views on federalism held by the three major political parties along with research-based literature. Federalism is needed in Nepal to address deep-rooted inequality, exclusion and discrimination in terms of ethnicity caste, identity and gender etc. In other words, it provides opportunities for self-government as national minorities can form a majority in one of the federal sub units (Kymlicka, 1995: 29). Despite this, one cannot deny it is contentious, but at the same time it is a solution for maintaining cultural diversities in terms of identity politics (Ghai, 2000: 7). The political struggle of recent years due to identity-based politics in Nepal has pressured the state to recognize (group) identities and redress past discrimination. Indigenous Caucus lawmakers from different political parties under NEFIN have been at the forefront, and have univocally pressured parliament into an identity-based federalism. As explained in my previous chapter, with references to influential scholars, the constitution plays a vital role in providing a level of autonomy to the states or provinces. In addition to this, Nepal being a state party of ILO 169 and a range of other conventions has a responsibility to protect groups' rights as well as individual human rights to development. While advocating for groups rights however, it would challenge the individual right to development. Thus, in this chapter I will talk about the current demand for self- rule and its historical context in the case of Limbuwan, along with how NEFIN's policy on this issue may generate peace or invite further conflict. Before responding the research question I would first like to introduce Limbuwan movement for self- rule.

5.2 Limbuwan Movement

On the way to Illam on a night bus, which is the proposed capital city of Limbuwan, I unfortunately heard about a strike, which was scheduled to be next day. I was worried about this situation and its duration. The passengers started to call their relatives and family, but I was confused by their conversations. The next morning I reached Illam at 10:00 AM. Later on, my

informant told me that *Limbuwan Prantiya Parishad* (Limbuwan State Council) called for this strike for a day to commemorate Limbuwan annexation into Nepal. On this day every year, August 6th (Shrawan 22nd), the whole of Limbuwan closes; it is known as the 'black day'. One can experience this historical demarcation as an act of resistance in Limbuwan each year. The movement's bottom line currently, is to establish a Limbuwan Ethnic Autonomous State (LEAS). It demands a secular, federalist, republic and democratic state *(loktantra)*. The other demand of this movement is regarding the ascribed responsibility of the federal constitution: Limbuwan has to have the right to write its own constitution. The federal Supreme Court will not have the right to intervene in the final verdict as declared by the Limbuwan state court (based on what my informant told me).

Many historical rebellions and movements took place to achieve the political reality of LEAS (Baral, Bhawani, and Limbu, Tegala Kamal, 2008: 64). Hangen cites Caplan and Regmi as saying that Limbus resisted the Nepalese state in order to retain their rights in 1900s (Hangen, 2007: 14). On top of this, Baral cites the ethnic as well as regional rebellion that Limbus instigated during 1950 and1951, raising demand for 'federalism' in Nepal (Baral, 2007:11). This rebellion is the evidence that politics that has to be negotiated by the state actors in a peaceful way. After the annexation (dissolution) of Limbuwan into Nepal (Gorkha), the resistance did not continue in an organized way (Baral, Bhawani and Limbu, Tegala Kamal, 2008: 106). However, the authors point to the Limbuwan Council as the first political party that demanded Limbuwan during the Rana regime and revolted against them. It entered a coalition with Nepali Congress. After the regime was abolished, it went back against what it had agreed before and betrayed the Limbuwan Council. As a result, numerous Limbu organized or Limbu parties were established to continue the movement. Such parties and politicians could not secure fruitful results after and during *Panchyat Regime*. Such fighters and politicians were either prosecuted or executed brutally by the Nepalese state. Political activists like Bir Nembang (*Limbuwan Mukti Morcha*) were prosecuted during *Panchyat Regime*. He demanded that Limbu language, culture and tradition should be valued and recognized by the state. The noted sociologist and scholar Bhattachan also agrees that a powerful and organized resistance movement has been absent in Nepal when compared to Chittagong Hill Tract in Bangladesh, Nagaland, Bodoland, and the

Naxlite movements in central India[61]. After the democratic movement of Nepal, KYC was established in 1989[62]. It became the only representative Limbu-based organization that demanded Limbuwan on ethnic and historical basis. It still coordinates Limbu members from the mainstream political parties, as well as different Limbus political parties/organizations, and organizes meetings and dialogues. It is a nonprofit organization lobbying the Nepalese state and it empowers Limbus culturally and politically. During a visit, I was invited to participate in one of the interaction programs it organized. It was called '*Analysis of Limbuwan Atrocities and Present Political Analysis'.* There were different topics for discussion: the confused messages about Limbuwan that the media broadcast; that indigenous politics is different from mainstream politics; that the politics of Limbus is for land rights and identity as well as historical boundary of Limbuwan; as they want nine districts[63]. Most of the speakers emphasized that due to mainstream media, the voice of Limbuwan is overshadowed. The other conclusion of this interaction program was the lack of coordination among Limbu organizations, which have been favoring nepotism. The other main agenda was political autonomy, which is not easy to get. Most of the indigenous CA members admitted that the issues of IP are sidelined in the CA. It was striking that IP members are experience the party-whip before they speak in the CA. Their demand of forming a distinct Indigenous Commission has been sidelined; it is now under the Human Rights Commission. So, IPs fear that this Commission may be sidelined and that they might lose the momentum they have gained (based on my interview).

After the Mass Movement II (*Janaandolan II*), a different faction of political parties emerged advocating federalism, which was different from the mainstream political parties. Among these, Federal Limbuwan State Council (Lingden) under FDNF (Federal Democratic National Forum) is the most noted and prominent. The party later split into three factions. Federal Limbuwan State Council (Lingden) is the most prominent in the eastern hills of Nepal; it has two members in the present CA. It advocates for federalism, a secular, republic state, and democracy in Nepal. Moreover, it raises the issues of ethnicity, autonomy and history of Limbuwan. It is probably the

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[61]http://himalaya.socanth.cam.ac.uk/collections/journals/contributions/pdf/CNAS_25_01_07.pdf
[62](http://www.chumlung.org.np/page.php?page=1)

[63]According to the map of SRC, the two districts (Sankhuwasabha and Dhankuta) do not fall in Limbuwan province, but in Kirat Province. So in the interaction program these two districts have to be in Limbuwan province. (Centre for Constitutional Dialogue, 2011)

first party to conduct a Mass Meeting on 26th of November 2011, advocating for the rights to self-determination based on ethnic identity and autonomy. The chairman confronted the CA when he said that there would be conflict if state does not declare Limbuwan autonomous, and that they would fight for a thousand years to get it. In Nepal, identity based politics have exposed the problems inherent in the caste system. Critics and intellectuals have criticized NC's notion of seven provincial structures. The prominent human rights activist Mr. Malla K. Sundar, in a discussion meeting, aggressively asserted that Newas[64] will be first ones to resist if CA agrees to the seven provincial structures[65].

There are numerous other small Limbu dominated (ethnic) political parties fighting for land and federalism in Nepal. Some are the sister organizations of mainstream parties. Despite this, it is not yet possible for them to be united, as my informant from NC, Illam branch told me. Several meetings were held among them, but clashes for power (chair) have split them into three, like FLSC. Despite this fact, my informant from NC, Illam admitted that on certain common issues like federalism, democracy etc they are still in touch with them. Federal Limbuwan State Council (Lingden) is prominent now in the Limbuwan area. They have a strong political grip over this area, and have a military wing called Limbuwan Volunteers (LV). The party has continuously organized strikes on the 15th day of each month to force the state to declare Limbuwan Autonomous state in the forth coming constitution. Another aspect to this strike is the issue of the historical boundary of Limbuwan; as they want inclusion of nine current districts[66]. The state has to take into consideration their demands to avoid any structural violence. During my fieldwork, I did not find the situation on the ground to be alike to the grim picture portrayed by mainstream national media. In Nepal ethnic grievances have not yet been addressed by state actors or even by mainstream parties. Now let me return back to my two remaining research questions:

4) Is NEFIN's current policy for ethnic federalism in Nepal also taking into account the individual human rights (to development) of the poor from the dominant high caste groups and

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[64]Newas, the indigenous people of Kathmandu Valley were infuriated by the decision of Supreme Court of Nepal to restrict their use of their mother language in 1999.
[65]http://rajyasatta.com/rajyasattabimarsa/1969-2011-08-16-17-39-35.html

[66]Sankhuwasabha, Taplajung, Dhankuta, Terathum, Panchthar,Illam, Sunsari, Morang and Jhapa (according to my informant).

the untouchable castes and the most marginal communities that are not in the CA and not well represented.

2 (a) Is the historical legacy of self- rule and governance of land in Limbuwan of much relevance for the recently declared Limbuwan?

In attempting to answer the first question I will rely on published articles and interviews with some of the movement's most prominent ideological thinkers. I will also outline in brief NEFIN's policy, which proposes Limbuwan as one of the self-declared new ethnically defined federal units.

The following question allows me to probe deeper into the vexing question of how relevant the historical legacy of inner autonomy is in the politics of an identity-based new Limbuwan.

My research question number 4 was formulated in order to probe my respondents' views on precisely how NEFIN's current policy on (historically) identity-based federalism addresses the individual rights to development of the poor from high castes, from untouchable castes, and from other marginal communities who are not represented in CA. This is a pertinent question, as explained earlier, since Nepal is one of few Asian countries that have ratified ILO Conv. 169, as well as a range of other conventions that give the state responsibility to protect and promote individual human rights. In the public debate in Nepal, one is often struck by the lack of attention to how national policies are tackling the potential conflicts between the collective rights (group rights) of ethnic and indigenous groups and each individual citizen's right to development. If we look at the UN Declaration (Article 1), indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms. If we examine ILO 169 (Article 3 and 5), we may note that while individual rights are recognized, it is group rights that take center stage. Returning back to Nepal, I found it worthwhile to ask a number of current leaders of NEFIN and some influential intellectuals and activists how they think their organization addresses this difficult question. I investigated this question with reference to my respondents and secondary sources. In processing their responses, I have attempted to systematically identify the main argumentative elements, looking specifically at the explicit responses, the level of concreteness in my respondents' responses and the gaps and silences in their responses.

My analysis reveals in brief that all the respondents take a normative position regarding the prime importance of group rights, while not denying that individual rights should also be recognized. But their responses were formulated in such a manner that it came across that it was "others" outside NEFIN who had to take responsibility for these other minority groups' fulfillment of individual rights. Some respondents, though, mentioned some other groups that they recognize as having specific challenges, for example, the Dalits. In all the initial responses, not one reflected on the tensions and contradictions between group rights and individual rights. Nobody really tried to reflect on what kinds of conflicts would have to be tackled within the identity-based federal units.

In an interview I had with secretary of NEFIN about its vision, she admitted to me that NEFIN has holistically and selflessly fighting for collective rights (group rights) as demanded by IPs groups. Moreover, the secretary told me that as Nepal is a state party to international conventions; it has a responsibility to give these rights. NEFIN, being the sole umbrella organization and collective voice of Janajati nationalities, argues that the state structure should be built around ethnicity, language and geographical location, as I explained in the introductory chapter. The demarcation of state boundaries, NEFIN suggests, would give indigenous groups a natural environment (habitation) over which they have historical claims founded on their livelihood and cultural practices. From a historical standpoint, NEFIN advocates seven separate states: Limbuwan (Limbu), Rai (Khambwan), Tamang (Tamsaling), Magar (Magarat), Tharu (Tharuwan), Newar (Newa) and Gurung (Tamwan). However, the governance model does not mean the monopoly of one ethnicity over others but 'unity in diversity.' In the interview, the secretary acknowledged that, "*According to principle of federalism access to control over natural resources management and autonomy for different castes etc., is given that would be best.*"

I will elaborate on this brief introductory analysis, by bringing in some key findings from the interviews. In interview with a Janajati activist and the District Coordinator of KYC Illam, he was made clear that individual human rights are very crucial and useful, since use of political and civil rights in voting will ensure that Limbus have a sizable numerical influence in elections at the federal level. It is also striking that while stressing that everyone as an individual has the right to health services, he gave no explanation as to who should fund it and where the resources

will be taken from. In fact, when asked directly about the division of labor between the center state and the federal government, he stated that he wants the center to be not only responsible for foreign policy issues, but also for funding and constructing a transport system. Nevertheless, he argued that the federal state should have control over the tax and revenue system, which makes it hard to understand how he thinks the state can get the revenue and resources needed for infrastructural development. Based on these interviews and analysis of the NEFIN, this is inimical to the definition of classical liberalism/liberal democratic theory. A liberal democracy's basic assurance is freedom and equality of individuals based on formal individual rights. However, formal individual rights are not enough to protect the freedom and equality of individuals who belong to different groups in multicultural societies. In addition, individual rights and norms do not ensure the inclusion of different and diverse groups because the individual rights are defined on dominant values and norms (Kymlicka, 1995: 34-75; Lawoti, 2005: 161-163).

NEFIN and ethnic activists in Nepal argue like this: individual rights according to democratic liberalism will not be successful in a society like Nepal that is deeply unequal and discriminative. Its conventional state mechanism and apparatus are inflexible for implementing liberal individual rights as a method of addressing the ethnic grievances of marginalized socio-cultural groups. To address ethnic grievances, force could applied be through collective rights, which will not openly exclude them. While favoring (advocating) group rights, this may violate the individual rights of any person to participate in decision-making for example. Right to participation and decision-making are the rights of both individuals and collectives according to democratic principles. Such rights are embedded within what we may call a self-rule (autonomy) theory of democracy and sovereignty. NEFIN's advocacy for ethnic federal units like Limbuwan may trigger new conflict or escalate conflicts, as in the secretary admitted to me when I raised the issue of control over natural resource management by Limbus vs., other social groups in Limbuwan. Thus, in this state Limbus will have rights over communal lands and resource management. Access to such resources for other communities would then be negotiated through inter-community interactions. This would invite further exclusion of other ethnic groups and non-ethnic minorities in Limbuwan. Bleie argues that if such contents are overlooked, and if the indigenous movement has a tunnel vision of promoting groups' rights, it will endanger public consensus-building and conflict will intensify. Nepal has already sunk into a fragmented, conflict-ridden political

system[67]. While explaining the right to participation (popular sovereignty), Mukta SinghTamang argues that representation of indigenous people in all relevant state institutions as well as the right to have a voice in decision-making has to be linked with the right to self-determination[68]. Here it should be noted that the right to self-determination is according to UN laws- prior consent for the group and internal democracy regarding their culture and tradition. This kind of popular sovereignty in return could destroy the caste hierarchy. In other words, as Bleie has argued, such a political process can lead citizens to reject caste system (based on the sacred text of *Manusmriti)* and actively engage them in law making or constitution making process. Scholars like Bleie and others further warns that a resort to a "tunnel vision-like" ethnic politics, as in ethno- centric nationalism in present-day Nepal, may represent a return to a pre modern or "tribalist" tradition that further heighten rather than solve conflicts. . Hence, if the indigenous movement and political parties really want to succeed in building a democratic inclusive nation, they have to merge ethnic identities and regional identities through a new understanding of overlapping common identities. Such an understanding could transform the current problem of national identities, which used to be based on Hinduism (monarchy) and the Nepalese language. In other words, it is necessary to balance group rights with individual citizenship rights to facilitate and develop a shared sovereignty, conformity of law and a desire for common collective life (ibid).

In this chapter, I have so far attempted to address whether NEFIN has had paid adequate attention to the crucial question of how to balance group rights with individual rights. In my assessment, there has been inadequate attention given to individual rights, in spite of the fact that a social movement such as NEFIN builds itself on the active use of individual civil and political rights. After the Peoples' War, Nepal has made certain important steps towards realizing individual rights. One such important step was the 2008 election, which brought the most inclusive (in terms of gender, caste and ethnicity) parliament in the political history of Nepal. Group rights have become the basic framework for a significant advocacy by NEFIN and regional movements for identity-based federal units, including Limbuwan, Tharuwan, etc. Because of the limited scope of this thesis, I have chosen to look into the case of Limbuwan and would now like to proceed by looking into the difficult issue of the historical legacy of the

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[67]http://munin.uit.no/bitstream/handle/10037/2945/article.pdf?sequence=3
[68]http://uit.no/Content/225150/forum_report_2010.pdf

Limbus' semi-autonomous rule during the former eras of autocratic rule in the 19th and 20th century.

Against this backdrop, I shall try to provide some answers to the question of whether historical legacy is relevant for ensuring better local self-governance in the core areas of Eastern Nepal, where Limbus live side-by-side a large number of other ethnic groups and former caste formations. As Limbuwan is my chosen case study, I needed informants who know the culture, history and politics of the Limbu people and Limbuwan. Therefore, I chose two informants from KYC. I interviewed a Janajati Activist from Kira tYakthung Chumlung, Illam who is the district coordinator and an acting general secretary from KYC Lalitpur, in order to probe my respondents' views on precisely how the historical legacy of autonomy *(Kipat)* has relevance for the recently declared new Limbuwan. In addition to this, Limbus has already developed a kind of social bond with other people in this area. Do Limbus think others should be displaced or not? The national media have broadcasted stories that other people are currently forced to sell their lands and houses[69]. I will investigate and analyze my informants' views accordingly.

5.3 The historical Legacy of Self-Rule and the Current Governance System in Limbuwan

Before responding to my research question, I would like first of all to outline the meaning of the historical autonomy (self-rule) of Limbuwan, based on the interviews with my informants and on important secondary sources. '*Kipat*' (the Limbus' traditional land holding system) is central in the nostalgic historical narrative of the Limbu nation still connects them to their former glory. Under the late King Pritivi Narayan Shah (1743-1775), *Kipat* (traditional land holding system) was recognized as at the core of the Limbus' continued political autonomy. This recognition was central to a political compromise and deal (*Lalmohar*) between the erstwhile unifier king of modern Nepal and the Limbu leadership (Tegala and Baral, 2008: 44)[70]. Nepal, before unification, was composed of different sovereign kingdoms and chiefdoms. The Kirats (*Pallo Kirat*) settled in the eastern part what Nepal is currently. Its border was extended to the east near Arun River, in west to an independent Himalayan kingdom (currently the state of Sikkim in India) and in the north to Tibet and in south to Jajalghat, India (Tegala and Baral, 2008: 44). To

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[69]http://archives.myrepublica.com/portal/index.php?action=news_details&news_id=19267 (Published on 2010-05-30 05:00:01)
[70](http://himalaya.socanth.cam.ac.uk/collections/journals/kailash/pdf/kailash_18_0102_03.pdf).

expand his territory, King P.N Shah found this place of tremendous political importance. The troops of Gorkha fought the Limbu fighters more than 16 times. Despite this, they were defeated each time by Limbus, a group that was uninterested in reconciling and merging into the House of Gorkha. The troops of the Gorkhas used to be defeated by guerrilla warfare with bow and arrow in the vast eastern hills. Moreover, the Limbus drove the enemy back to a distance of about three to nine days from the border[71]. Finally, the House of Gorkha made the already mentioned political agreement with Limbus. The Limbus were conceded the right to political autonomy over their huge tract of land, while they at the same time agreed to respect Gorkha as the center. Limbus retained for a long period of time (1778- 1964) some degree of local autonomy within the framework of *Kipat*. In that regard, Limbus could implement their traditional law. However, for the system to function administrative hierarchies had to be created. These different levels used to counsel each other without discriminating anyone. In this system, *Adi Subba* (leader) used to conduct public affairs in a quite democratic way (by way of power diffusion), without any caste hierarchy, hiring *Thari*[72]*and Mukhiaya*[73]etc. The Nepalese state accepted that the Limbuwan authorities had the right to handle various governance issues and trials, expect large murder cases. My informant from KYC, Lalitpur, further emphasized to me that, "*The land rights in the Limbus case- has been very central to demands for political rights, so Limbus have been raising this issue for a long time.*"

It was an exceptional case in the history of modern unified Nepal that Limbus of Limbuwan had a degree of political autonomy under the House of Gorkha until the state declared the Land Reformation Act in 1964. The elimination and demise of this system, created many economic and social changes and was also almost felt like a loss of identity. Moreover, this act curbed the Limbus' political rights and forcefully assimilated the Limbus into the dominant high- caste Hindu culture. It was a direct and notable example of an 'invasion on a local level/body by the state '(ibid)[2]. *Kipat* and political rights were lost, but the question *'where I am? And who I am?'*

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[71]http://limbu-wan.blogspot.no/2008/12/limbuwan-gorkha-war.html (I could access only from this BlogSpot)
[72]*Thari* This functionary used to be both Limbus and non- Limbus, who was responsible for providing information for tax collection to Nepalese authority.
[73]*Mukhiaya* This functionary was a kind of village official, used to be non-Limbus who was responsible for presenting domestic animals as a gift to *Adi Subba* in festivals and other occasion as a tax.

has continued to linger in Limbus' hearts, and many have felt alienated in the political development of Nepal since the 1960s. My informant from KYC, Lalitpur explained to me that, "the *Nepalese state (mechanism) should have a special strategy in the case of Limbus and Limbuwan*."

Kipat was traditionally never sold or purchased to outsiders. It proved the continued legacy of a community-based land holding system. All other land after the unification of Nepal used to be the property of the King, and was called *raikar*[74]. The King could give his land as *birta*[75] or *Jagir*[76] to those whom he wanted to remunerate for their services. *Kipat* was fully outside of the kings' sovereign authority. Under the *Raikar* system, granted land will return to the kingship if the owner does not have any heirs. Thus, the land system was a juncture of potential conflict between the state and the local level, as the state was imposing its national system of governance and politicizing its culture (ibid)[2]. In my interview with my informant from Federal Limbuwan State Council (Lingden), I asked about the post-1964 modernization project of building up a common Nepalese identity, based on Hindu culture and religion. He responded very critically, arguing that the state's message was '*Yo chai Limbuharu Marijau Bhanako ho*'; let them (the Limbus) come into the national system of governance. Forbes refers to the Nepal's most influential historian, Mahesh Chandra Regmi, who concludes it this way (ibid)[2]:

"*……it is lawless to pay attention to such a traditional system at the expense of national interest. To bring social and economic change, the system has to be replaced that has hindered the modernization, development and indeed the nation building project*."

While investigating nation building in Nepal, Bleie argues that this project could have fostered a respectful inclusive culture and non-discriminatory institutions, but this process was and remains contested and incomplete in various ways[77]. As I explained in my theory chapter with reference to the scholarly debate on nation building, the state needs to deliberately manipulate identities and nationalities in historical discourses and contemporary rhetoric for individuals to nurture national feelings and a sense of belonging. In this regard, myths and historical narratives of "the

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[74]*Raikar*– lands on which taxes are collected from each individual tenant.
[75]*Birta* – land gifted as political reward.
[76]*Jagir*– land bestowed for military service.
[77]http://munin.uit.no/bitstream/handle/10037/2941/report.pdf?sequence=3

nation" are not necessarily truthful or accurate, but are believed. In discourse, rhetoric often aims at transforming conflict among competing groups. In other words, what my informant a district coordinator from KYC Illam, emphasized in the interviews is that in the course of national building in the last few decades, the development of common Nepali language, social geography and national culture were repressed by the Hindu state as there are many (objectively existing) differences among castes and between ethnic groups. Thus, activists and most national ethnic-oriented scholars' claim that an ethnic identity in Nepal is not a recent constructed phenomena, but instead modes of expression that were hidden by earlier feudal and repressive regimes. Such hidden feelings could be openly expressed in the last decades due to the new democratic polity and its pluralistic affections (Gurung, 2007: 47).

In the Nepalese contemporary discourse, the primordialist position on the issue of ethnicity, dominates among local activists and scholars. In this debate, "historical Limbuwan" has taken on a symbolic function and has become highly political. In the recent decades of ethno-nationalism in Nepal, vestiges of former traditions among Limbus, Magars, Gurungs etc. have become effective discursive elements in construing claims about self-governance. In the current political climate, historical facts of the state-society interface are often secondary or irrelevant as long as people can be mobilized around quasi-historical narratives. As was noted in the theory chapter, any successful nation-building requires some sort of cultural cement – through national symbols, history, traditions and myths, which are the guiding elements that bind people together (Linder, 1994:17). In Nepal, the collective (common) identity of 'Nepalese' has in recent years been challenged by regional and ethnic identities that claim that "I am a Limbu, Tamang or Magar first and secondary a Nepalese. What Gellner (1990:25), Bleie and Dahal (2010:43) are critical to is the imbalance created by recent ethno-nationalism, due to the lack of attention to what elements unite people "as Nepalese", now when Hindu religion and Nepali as the common binding cultural elements have been challenged. Thus, this crisis of national identity can only be resolved by balancing group rights with individual citizen rights, which I discussed in my theory chapter.

My analysis of the conversation with a Janajati activist from KYC Illam reveals that my respondent took a generally reflective and critical position on the issue of the prime importance of the historical self-rule autonomy and the distinct *Kipat* land management system for today's

challenges. In the interview, he in fact denied that the former system of historical self-rule is that relevant to present-day Limbuwan. Presently, most Limbus do not have knowledge about their former governance and land system. Moreover, the land has been already confiscated. However, he strongly asserted that *Kipat* land should be protected by the state, wherever it exists. In our conversation he further commented on this: "Though Kipat was a feudal system, with the main (*Adi*) *Subba* in charge of all things, it was more democratic than the current system". Here, my informant emphasized that *Kipat* management of then time was more *democratic than the current system.* In my interpretation this shows his bitterness at the Nepalese state mechanism and its actors. I will explain and comment on this further in the next section.

It was not only the Janajati activist who acknowledged that one cannot return to the abolished *Kipat* system. I have found that several proponents of federalism exemplify and depict Limbuwan in a more general (not very historically specific) manner as an example of practiced federalism and autonomy in the history of Nepal. It was an area that received special rights to practice its own tradition, culture and language in relation to land and local autonomy (Acharya, Suresh and Yatru, Kumar, 2011: 75). Thus, Limbuwan's historical legacy plays a particular role in the current political debate. What was possible in the past should also be possible presently, even if the system of governance in "the new Limbuwan" cannot be a replica of its past system of inner autonomy (self-rule).

I have argued in chapter four that the constitution plays a vital role in setting the standard for inner autonomy. Talking about autonomy with my informant from KYC Illam, he directly denied the self-rule provision proposed by the Thematic Committee of CA. He strongly condemned this provision and argued it will bring further conflict to the people, even though it was introduced as compensation and to redress past injustices. The proposed trial period for self-rule is for 2/3 years. For instance, in the case of Limbuwan, Limbu gets a chance to rule for 2/3 years if Nepal chooses identity base federalism. Instead my informant from KYC Illam supported a system of proportional representation, which he argued is a better governance system. My informant from

KYC Lalitpur demanded exclusively for a self-rule provision determined by the constitution of Limbuwan Autonomous State while denying and rejecting the Local Governance Act 1992[78].

I argued in my previous chapter that the decentralized local governance system has been politicized by local power elites, who are members from political parties in their local units. In Nepal there is a very common proverb: '*Thulalailai chain, Sanalai Ain*', which literally means, "those who are in the top position (ruling elites) rejoice, but the weaker and marginalized people have to suffer legally". However, there have been several high profiled attempts of power devolution and decentralization in different policy areas. Community Forestry has been hailed as one of Nepal's few success stories. Thus, I shall make some brief comments on community forestry as an effort to establish a more democratic local system of self-governance over Nepal's bountiful forests in the last three decades.

5.4 Democratic Local System of Self-Governance (Community Forest Users Group)

The system of decentralization in forestry started when the governance system of Nepal was highly centralized. After the restoration of democracy in 1990, the liberal policies adopted by the democratically elected government included decentralized forest policies/acts. The community based forest management policy was first marked in the Master Plan for the Forest Sector in 1988, and legally supported and backed by The Forest Act of 1993 and The Forest Regulations Act of 1995. The main objectives of these acts have been the participation of individuals and communities in meeting their needs, the increased participation of disadvantaged groups, fostering governance, improving livelihood and poverty reduction. Unregistered land will fall under the community forest program. This policy influenced international aid agencies, so that money from foreign countries started arriving in Nepal in the name of democratic institution building.

The growth of forest user groups in Nepal over the last 10 years can be taken as an example of the effective increment of community based organizations. This growth has taken place in the hilly region than Terai region[79]. In this program, income generation is an important activity of

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[78]Emphasizing tax collection and budgeting to disseminate for the development of Limbuwan after sending certain percent to federal government (Draft Constitution of KYC,2066)
[79]http://www.communityforestry-nscfp.org/files/listingfiles/Microsoft%20Word%20-%20Jan28-bharat-paper-March1.pdf

Community Forestry in Nepal. CFUGs generate income from forest products, membership fees, and fines from the violation of rules. This income is not shared with the government but used within the community (local) for development work, infrastructure (like schools, taps, irrigation cannels) and in poverty reduction. My informant from Kirat Yakthung Chumlung, Lalitpur, acknowledged that the income that comes from the sale of the products is invested in income generation schemes like pig husbandry, improved ovens (*Sudheriako Chulo*) and scholarships for Dalit children. She gave me as an example of the *Maulanatar Community Forest Users Group* in *Terathum- Jaljale-4*, which covers 50 households. There is more indigenous participation in this CFUGs than participation from Untouchables (Dalit). Females have taken up the leadership. As explained above, community participation is focused, but in the interview she asserted that:

"*even it is focused for the community participation, but in the context of Limbus seems negative to me, as Limbus land right has been connected with Kipat which is transferred to CF.*"

Although my informant described the situation in Limbus, a separate report explains that forest users groups are becoming more responsive towards the poor in mid and eastern Nepal in the Dolakha, Ramechhap and Okhaldhunga districts. The report admits that sixty-two percent of forest users groups have identified poor household communities and approved to include them in the operational plan and their constitution. Surprisingly, ninety-five percent of forest users groups have provided forest products at subsidized rates to the poor. Similarly, fifty-six percent have given quotas for women and Dalit representation in leadership programs. In addition to this, forty-nine percent of forest user groups have been granting scholarships to the children of the poor. Finally, these user groups provide discounted loans for its members[80]. The main reason why the community forest program is successful in the hills is because Community Forestry is practiced under strict rules: there is a ban on annual crops, the use of fire, hunting and extraction of sand and stone (World Wildlife Fund Nepal, 2010:30).

In addition to forest management in Limbuwan, Limbus has developed multiple social bonds and economic modes of cooperation with other people. This brings back to the medias broadcasting

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[80]

http://www.cifor.org/publications/pdf_files/events/documentations/yogyakarta/papers/chapter%205%20dahal.pdf

of stories that other people are being forced to sell their lands and houses. Do the ethnic Limbu leaders pursue a policy which can lead to displacement?

I posed this question to my key informant from KYC, Lalitpur on a sunny day in her office. She told me that this is propaganda spread by the mainstream media[81]. One has to examine the media's political motivation, the mindset they are guided by and the involvement of people. Interestingly, she commented that there is not much access to national and international media in Limbuwan. She narrated to me a same story from '*Terathum District*'*,* which was similar to the story that was published in "My Republica", a national daily. The event occurred in the neighboring district of *Panchthar.* A neighbor who is a high caste sold his property to a Limbu to live in the plains of *Terai* (*Birtomod, Japha*). This high caste wanted to leave his hill property. My informant surprisingly told me 'that he is leaving unfertile land (in the hills) to live in fertile land of Terai so do not you think it is a propaganda*?'*In this news story, it is ironic that the Limbus of *Ambedin* Village bode this high caste man goodbye in a friendly manner and asked him to visit them quite often. If he was forcefully displaced, he would have to leave without selling his property at a good price. I would have liked to investigate this particular case further, but did not have time. It would of course have been very interesting to statistical evidence from the Land Revenue office, on the social status of people migrating to *Terai (fertile land)* and looked what land prices might indicate of level of conflict. I can only relate to my limited primary data. My informant explained to me that KYC is the sole representative organization of Limbus, and it has neither received complaints from high caste people nor do they have any planned to expel them. She strongly argued that KYC and other indigenous organizations have been continuously victimized by fabricated news. Bhattachan in this news furthermore argues that: these high castes are chased by their own negative psychological thought of past than the Limbus of Limbuwan. As they know that the land and soil is not theirs (Sanghiyata, 2067: 21)*.* The general assumption of the responsibility of the media is that they should work as a 'watch dog'. Ironically, in Nepal, the mainstream media has become "the lap dog" of the large political parties and the private sector. There are only few media outlets owned by IPs, which broadcast positive news about federalism and state restructuring.

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[81]http://archives.myrepublica.com/portal/index.php?action=news_details&news_id=19267&show_comments=true

5.5 Conclusion

In this chapter I discussed the current demands for self-rule and its historical context with a focus on the case of Limbuwan and its movements both historically and at present. Federalism in Nepal political sphere has to address the tangled issue of group rights vs. individual rights, as well as the demands of self-government by regional political parties and Limbu organizations. However, in Nepal the issue of group rights vs. individual rights seems to be a largely forgotten debate. In this context, I discussed the viewpoint of NEFIN, an umbrella organization of 48 ethnic groups, which advocates group rights according to international conventions. However, such advocacy excludes non-ethnic minorities and it risks worsening the situation for people who have been living together for a long time in the same communities, VDC and watersheds. In other words, their right to participation would be hindered. Thus, I argued that group rights have to be balanced with individual citizenship rights. It would be very counterproductive if NEFIN's advocacy may trigger conflict, rather than peace. Indeed, the right to participation and decision-making is the right of any individual and community or group according to the theory of democracy that I explained in a previous chapter. I illustrated this with an example of Community Forestry as a quite successful democratic local system of governance that provides opportunities for the community and individual in decision-making, participation in development and poverty reduction.

Chapter Six

6.1 CONCLUDING COMMENTS AND POLICY RECOMMENDATIONS

I have chosen in this thesis to research federalism in Nepal. My interest in this topic was originally nurtured by my support in the ongoing indigenous movement in Nepal. The path from a supporter and to engage in research on this topic has not been straight forward. I have to admit I been rather naïve in my views and definitely inexperienced as researcher. In addition, I was without prior experience of what a western educational institution like the University of Tromsø expects from a master thesis. And finally I have very limited and challenging background from political science and anthropology, core disciplines in the study of federalism. Hence, it has taken me long to investigate this thesis indeed very complicated topic and to bring the thesis work to a conclusion.

I have taken as my working definition that federalism is a structural apparatus that divides power between the center and regions. And I have taken as a point of departure that interdisciplinary theories of the state, democracy and identity politics are very useful in approaching my topic. In researching this topic, my research questions were to analyze federalist policies of leading political parties in the key areas of ownership of NRM, tax as well as relevant models and criteria according to academic literature plus to analyze NEFIN's advocacy on group rights.

This study has attempted to undertake an analysis of federalism (defined as state restructuring) based on empirical investigation of the perspectives of the three different major parties of Nepal, along with the views of NEFIN, KYC (ethnic activist organizations) and leading Nepal-focused scholars. It is important to underline that as I researched this topic between 2009 and 2012, including my brief fieldwork in Nepal during the summer of 2010 -the politics of federalism has evolved too. And it is impossible for me in this short study to document and analyze all the facets of the debates on federalism among scholars and activists. The terms of federalism as laid down in the Comprehensive Peace Accord and the interim constitution remains still a source of contestation among the political leaders of the different political parties .The issue of defining a suitable federalist model (of autonomy), as well as what should be the defining concrete areas of responsibilities for the federal units compared with the center, have polarized political parties (both rank and file members and leaders), the civil society and the public at large. Even after my

fieldwork, the principal governance issues are still creating "a tug of war", with clear-cut polarization among the major political actors and within the parties, inviting formal splits as well as informal but bitter divisions. I have described in the early part of this thesis that ethnic issues became prominent after the so-called *Mass Movement II,* through the efforts of NEFIN as well as the Maoist movement who waged a bloody rural insurgency between 1996 -2006. I have also highlighted that quite soon after the peace agreement; the political situation became too complex and rigid for the political parties in Nepal to bring the peace process to its conclusion. Instead, a fragile and dangerous "no peace –no war –situation prevails". The drafted manifestos of the leading political parties on this issue (and the sections of the draft constitution that deals with federalism) are considered artificial by most ordinary people. If seen from a citizen perspective and also from my scholarly lens, based on theories of democratic governance, the political leaders have not remained honest and accountable to the bulk of the people that elected them. As I observed in late 2012 when I concluded my thesis work, the last minute deals were done about the governance terms of federal units, their names (so hotly contested) and their geographical demarcations. Last minute deals were done out of crude power-sharing reasons, when the date of submission approached last year. I have found that the final number of federal units was decided in a secret deal among the top political leaders, who are all of high-caste background (Bahun). The democratically elected CA played in the end a strikingly limited role. When investigating the parties' manifestos, I have found that their main motivation was trying to gain the maximum number of political votes for the upcoming election, rather than any genuine concern with economic development and the wellbeing of the Nepalese people. Arguably, if they were truly bounded by democratic values and norms, these actors would have settled the issue of federalism to some extent. Thus, according to my analysis, if the leaders of Nepal are not accountable to the people and if only continuously chase power, the leading political parties may lose out in the end. As long as they undermine the trust of the common people, they continue to lose their remaining credibility. A crucial element in the political failure in recent years is the inability to address concretely key governance questions (tax, natural resource management etc.) of relations between the center and the federations. Arguably, if they overlook key features of the inter-ethnic social and political organization of multiplicities and communities in Nepal, the conflict will remain as it is or even escalates into more mass violence. Thus, when asking the leaders very concrete (to some degree embarrassingly down to earth) questions about governance

solutions –it exposed that suitable and appropriate federalism that can keep Nepal sovereign and intact are still at best - in the making. However, the case for federalism became also discredited by the media, as most of them (owned by a mix of the largest parties and private interests) have openly declared that this system of governance will disintegrate the country. State actors and many civil society actors do not seem to understand that there are ways of running Nepal by way of genuine power decentralization that may work.

I have argued, based on my theoretical discussion, that decentralization can exist either in a unitary state system or in a federal system, but federalisms cannot exist within a unitary state system. The nature of federalism is such that it institutionalizes decentralization of power in local bodies (within its specific central-local governance structures). I have at illustrated– if investigated it as well as I would have liked - that both national and local political elites influence local units and people for electoral gains and especially the parties' positions on the number and demarcation of federal units reveals such political interests. Since the debates on federalism is so polarized and many in the indigenous movement are negative to decentralization, I found it worthwhile to take a brief look in chapter five into Nepal's recent governance record in the forestry sector. I have found, to my own surprise to some degree that community forestry (CF) can indeed be taken as an effective method of ensuring participation of both ethnic and indigenous groups at the local level and may foster a suitable governance system at the local level. This study has found that the major political actors have not fully developed their policies of decentralization within or without a federal framework, but rather concentrated on short-term power sharing between the judiciary, executive and legislative levels only. In addition to this, they do not have a sufficient vision of the new phase of nation building based on accommodation of difference and development for all with diverse but overlapping identities. Although the political parties reassured me during my investigation that they are committed to federalism as a method of addressing the deep-rooted discrimination and inequalities in society, there is still deep dissent (within the parties) between the top leaders (who are mostly high caste) and other leaders of Janajati background. Similarly, this study found that there are vastly different views as to how to address the problems of deep-rooted discrimination and exclusion. As for example my informant from UCPN (M) was in favor of providing special rights to certain groups, whereas my informant from NC favored the(re)distribution of power and building trust within the state institutions. I have attempted to debate how conflict might be triggered or might

escalate -if the indigenous movement advocates exclusively for groups rights and overlooks the democratic rights to equal civil and political participation based on individual rights. Thus, to address the heterogeneity of Nepal, there should be an appropriate model of federalism and federal units built upon a real consensus. Insights can be taken from different corners of the world, but Nepal should have its own model that will not trigger conflict in the future and solve the existing ones. Ethnic activists outside and inside NEFIN have advocated for ethnicity- based federal units based on group rights including the right to self-rule. This identity-based politics are certain ways a persuasive, but as I have come to gradually realize, it might violate the very norms of democracy and undermine state sovereignty further, as I explained in chapter five. Thus, group rights have to be balanced with individual citizen rights. The indigenous movement has to take this basic policy insight into consideration.

I hope that my thesis is relevant to the current problems of Nepalese society and polity. The Nepalese government does not have conflict transformation mechanisms to address these issues in a manner that could solve these social and political problems. Currently, these are important yet contested issues take center place and are researched by for example the Social Inclusion Research Fund[82], a non-profit organization that is funded by the Norwegian Ministry of Foreign Affairs, represented by Royal Norwegian Embassy and SNV/Nepal (Netherlands Development Organization). Finally, I like to return to my recollection of my fieldwork and my discussion with my uncle. I asked him about a Nepalese social research sector, why does not Nepal have that is fully owned by Nepalese institutions? Currently, such social research is conducted by the above-mentioned donor-funded non-profit organization. And research on Nepal is conducted in western institutions. If the government of Nepal had a research program to address such real problems by both looking into our past in a non-prejudiced way and into our shared future, the Peoples' War may not have occurred and at least the ten years of armed conflict or might at least have given way to a real settlement. Thus, Nepal should have its own social science research sector that is independent, not donor driven and ready to engage in a constructive manner with those policy makers who want to build a peaceful future in Nepal.

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[82]http://www.socialinclusion.org.np/new/contentArticle-Content-bg==

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