

# Environmental Federalism\*<sup>1</sup>

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## 1. Introduction

In a country with a federal structure, along with issues like international relations, income tax and revenue the legislative power over environmental resources, service and goods are also divided or distributed among the Union or Centre, State or Province and the local Governments. More clear interpretations of power can be found in the Constitution of the Federal countries.

## 2. Model of Federal Structure

Not much thought and discussions are found to be taking place on what may be or should be the outline of Nepal's Constitution in the federal structure. Furthermore, the issue of what would be appropriate distribution of environmental resources, services or goods among the federal, provincial and local government in a federal structure is rarely discussed. Globally we can find the development of different models of federal structures, and the Constitutions of different countries have adopted different models. A study of federation shows the development of four models, as below:

1. Central Federalism: Promoters of Central Federalism are of the view that under Central Federalism, the Federal Government should develop necessary policy, rules and laws for resolving environmental problems.
2. Devolution Federalism: According to the supporters of Devolution Federalism, the most appropriate solution to environmental problems is possible only through the provincial and local bodies. As a result, it would be appropriate to give the provincial and local bodies the rights over environmental resources, services and goods.

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3. Dual Federalism: According to the followers of Dual Federalism the federal and provincial governments should have very clear or distinct and separate rights in the formulation of environmental policy, rules and legislation.
4. Interactive Federalism: According to experts who support Interactive or Cooperative Federalism all the federal, provincial and local bodies or government should have their respective role related to formulation of environmental policy and law within their area of jurisdiction.

All the four federalism or federal models have their own strengths and weaknesses. According to the supporters of Central Federalism, this kind of environmental Federalism is effective to prevent and control emission by two or more than two provinces, and inter-provincial emission, and to resolve all problems related to it. They are also of the view that equal federal standards on environment provide prior guarantee and clarity. But critics of Central Federalism accuse that there is fewer people's participation, lack of flexibility, no room for innovative ideas for resolving environmental problems, lack of ideological diversity, and free riding by the politicians. Devolution Federalism provides possibilities and inspiration too for innovative ideas to resolve environmental problems, and seek out and practice innovative methods. Supporters of Devolution Federalism are of the view that the laws, policies and regulations formulated under this Federalism enjoy the flexibility to become compatible to local environmental problems and local circumstances. Experts in this field believe that Devolution Federalism is able to maintain at least minimum standards of human health and environment. Economic or physical development receives priority here. However, there lies a risk of Race to the Bottom instead of coming first or second in the race among the provinces with the formulation of good quality environmental standards.

Under Dual Federalism, both the federal and provincial Governments have the right to formulate the law. There are very clear and distinct rights with the federal and provincial Government to formulate environmental laws. Dual Federalism provides for balance of power, and maintains double security is the argument by the supporters of Dual Federalism. Arguments against it though include difficulty in guarding the jurisdiction of the federal and provincial Governments, dilemma on the jurisdiction for bodies looking into cases, lack of coordination and lack of sufficient resources with the provinces to implement the federal programs.

As Interactive Federalism carries the benefits of the Central, Devolution and Dual federalism or federal models, and also minimizes the shortcomings of all models, interactive or cooperative federalism is taken as appropriate in resolving environmental problems of national and international nature. This creates pluralism and dialogue, resulting in increase in innovative ideas and competitive access or measures, and also maintains equitable justice and accountability. As all the three federal, provincial and local Governments have a role in formulation of environmental laws, there could be overlapping of this right and possibility of formulating laws more than what is required. Critics of interactive or cooperative federalism are of the view that laws formulated by such inefficient and overlapping and ambiguous manner would consume more time to resolve the environmental problems. Though interactive federalism is good, experts are of the view that it would not be easy to enforce this alone instead of the aforementioned three federal models.

### **3. Distribution of environmental resources in a federal state**

The subject of which of the aforementioned four models of environmental federalism should be the basis of distribution of environmental resources, service and goods among the federal, provincial and local government has not been or rarely been a matter of discussion in a new federal country like Nepal. In this context before discussing any of the models here, it would be appropriate to remember and consider the fact that still today more than 85 per cent of the citizens in the country depend on environmental resources, service and goods for their daily livelihood. So it would be appropriate to give serious priority to this subject or issue. All the four models of federalism mentioned above should be discussed and thought over in the context of Nepal in a more fruitful manner as below:

#### **3.1 Environment**

In a situation where the Federation (Union) is given the right to formulate laws for protection of environment and the prevention and control of pollution, it leads to uniformity in the field of environment protection, and prevention of pollution. If this task is handed over to the province then, as the critics of Devolution Federalism have said, there shall be a Race to the Bottom instead of coming first or second in the race with the formulation of good quality environmental standards. This will increase the possibility of development of industries, factories and other infrastructure development at the cost of environment. As many provinces would possibly make environmental standards very feeble or weak with the objective to invite or establish industries and factories in their respective province, it would be appropriate to include in the Constitution a provision reading “the Federation (union) shall have the right to formulate laws in relation to the environment protection, prevention and control of pollution, environmental impact assessment and environmental standards”. In this context it would be appropriate to include in the Constitution a provision stating, “The provincial and local governments shall have the right to formulate laws more progressive and of higher-standard than the laws formulated by the Federation on environment protection, prevention and control of pollution, environmental impact assessment and environmental standards”.

The status of enforcement of majority of the international multilateral environmental treaties and agreements, that the state is party to, is very weak. Principles of environmental sustainable development are formulated considering and evaluating the needs of resolving global environmental problems and so only when a provision in the Constitution reading “the federation shall formulate necessary laws in connection with the international conventions that Nepal is party to and the provinces shall enforce such laws, and provinces shall also have the right to environmental impact assessment, formulate and enforce environmental standards” is made, enforcement of such provisions can be ensured practically at the provincial level.

Consumerism style of speedy growth in majority of the towns and town-oriented villages of Nepal and its various impact on our beautiful, clean and healthy natural, physical, organic, human, water, botanical and ecological systems has been evident to all at the local, regional, national and international level through various form of modern means of communication. Problem of waste management in majority of the big cities of Nepal, and especially in

Kathmandu Valley has been a problem recently. Solid waste<sup>1</sup> was not collected in Kathmandu Valley for 64 days between 2063 and 2066 B.S. including for 19 continuous days in Magh, 2065, 13 days in Chaitra and nine days in Baisakh, 2066<sup>2</sup>. It is evident to all that the waste could not be collected from Kathmandu valley as the agreement reached between the local inhabitants of the dumping site and Kathmandu Municipal Corporation, Lalitpur Sub-Municipal Corporation and Government of Nepal, Ministry of Local Development was not followed. In order to make sure that the citizens of the Federal state do not face the brunt of the unexpected conduct and behavior of anyone as a result of the aforementioned problem every day, the forthcoming Constitution should give the local government the essential legislative rights to properly manage the waste. So, it would be possible to properly manage waste by the local Government by incorporating a provision reading “It shall be the duty of the local government of both formulating Act, regulation, policy and programs on waste and enforcing them” in the Constitution.

### **3.2 Climate Change**

Limiting the right to formulate necessary laws relating to climate change to only one level would make any big contribution to resolution of the problem difficult. The right to formulate laws related to climate change should rest with all the three levels of federal, provincial and local government but it would be appropriate to include a clause that would annul any law made by the provincial or local government in contradiction with the laws formulated by the federation, or the laws formulated by the local government in contradiction with the law of the Province automatically to the extent of contradiction.

If a provision reading, “The federation shall regulate the national industries based on environmental resources, the tax on goods and services based on such resources, and maintain a record of related data, and publish it” is incorporated then the documentation of industries related to environmental resources, and tax related to environmental goods and services will remain up-to-date. A provision stating, “Provision of laws related to environmental resources at all level, formulation of integrated plan, coordination in procedural, structural and decision making process and necessary measures for monitoring, and deciding subjects having serious direct or indirect impact on livelihood through referendum and for sustainable management of environmental resources conflict between the community-locals, province-federation, federation-communities, federation-province, province-province and inter-states dependent on environment resources for livelihood shall be managed jointly by all” is included in Constitution then the duty and rights of all concerned government and communities for environmental management and protection at all level can be exercised easily.

### **3.3 Water Resources**

If there is clear provision in relation to distribution of water resources in a federal structure, the legislative rights over environmental resources between the federation, province and local government would become clear. As a result, it would also contribute to protection of water resources, sustainable use and equitable distribution of the benefits of utilization of water resources, and also prevent disputes.

So, in relation to management of water resources, among the environmental resources:

- The federation shall formulate laws in relating to protection of water resources, prevention and control of pollution, sustainable use and equitable distribution of the benefits of utilization of water resources, and the provinces shall enforce the laws;
- The right to regulate production, transmission and sale and distribution of hydropower above 50 MW to the federation;
- The legislative right to regulate production, transmission and sale and distribution of hydropower below 50 MW and above ten (10) MW to the province;
- The legislative right to regulate production, transmission and sale and distribution of hydropower below 10 MW and above two (2) MW to the local Government; and
- The right to regulate production, transmission and sale and distribution of hydropower below two (2) MW shall rest with the community.

Accordingly, if the Constitution assigns legislative rights along with the determination of a level and parameters, then every level will enjoy legislative rights on the one hand while on the other the federation, province and local government and communities shall not be deprived of the opportunity to develop their respective regions through protection and management of water resources within the assigned level and parameters. The province and the local government and communities should be given the right to produce power as per their capacity and it would be good to not fix a production ceiling.<sup>3</sup> If the recommended provisions are compared with the models of environmental federalism, then we will find all the four models here, only determination of law and parameters has specified the jurisdiction of every level but all the four levels would be working in the water resource sector.

In relation to the tariff collection from the use of water resources, it would be appropriate to include in the Constitution “the province shall use water resources within the boundaries of the federal law and would have the right to levy necessary tariff for consumption”. If a provision stating that “the federation shall give priority to the interest of the province that is the source of the water resource” is made in the Constitution, then it would provide some guidelines to the federation and provide sufficient ground to resolve any possible disputes in the future. It seems to be appropriate to include a provision stating that “Rights related to the inter-provincial watershed areas running between two or more provinces and laws related to it shall be formulated by the federation, and would also resolve possible disputes” in the Constitution. If a provision reading “The community shall have rights along with duties over traditional stone spouts, small rivers and streams, community lakes, local renewable resource management, and production, sale and distribution of farmer-managed irrigation, management, maintenance and preservation of drinking water” then it would preserve and respect the community knowledge on such resources managed and operated by the community so far, and would also end the situation where the concerned community has to depend on the aforementioned subjects of any government.

It would be appropriate to provide in the Constitution the right to formulating laws on drinking water at the district level and its management to the local government, right to regulation and management of drinking water projects within two or more districts within one province and the provincial level to the province, and the right to drinking water at the community level to the concerned community.

Accordingly, it is regarded as appropriate to give the local government the legislative rights and responsibility of management of district level irrigation and underground irrigation, the legislative rights related to irrigation and underground irrigation of two or more districts and provincial level and the responsibility of its development and protection to the province, and the rights and duties concerning the irrigation of two or more province to the federation. It is also regarded as appropriate to give the right and responsibilities related to irrigation managed by the farmers to the concerned community.

The right and duties of regulating and management of the wetlands and glaciers should be of the federation, province, local government and the concerned communities. It would be more practical to include in the Constitution the right of the provincial and local government to draft laws more progressive than those formulated by the federation.

The right to regulate the protection of watershed areas within two or more than two province should rest with the federation and other than that with the provincial and local government.

### **3.4 Forest**

In the past when the country was governed under a unitary structure there has been significant progress in the preservation, management and development of forest, and in the access of various groups to forest and distribution of its benefits. It would be appropriate to make provisions related to distribution of forest resources in the Constitution by being based on the success achieved by Nepal in the past in forest management, and on the foundation of the incomparable experience of forest management. In order to promote the benefits of forest resources, it would be appropriate to include in the new Constitution a provision stating, “It shall be the right of the federation to formulate structural laws for the promotion of the organic, social, economic, cultural and spiritual benefits received from protection and development of forest”.

It would be appropriate to include a provision in the Constitution reading, “it shall be the right of the federation to formulate structural laws that would propound principles of equitable distribution of different kinds of benefits received from forest resources, service and goods, and for protection, management of forest, and lasting and equitable access to forest” that would internalize the principles and elements of environmental justice. Apart from this, if the right to manage, protect, utilize the forest and formulate laws for equitable distribution of its benefits on the basis of the structural laws formulated by the federation based on the aforementioned principles and considering the experience so far of the local community, is given to the province then the management and protection of forest would become effective. Also if a provision reading, “Further to the laws on protection and management of forest formulated by the federation, the provinces shall have the right to formulate and enforce laws that contribute to

more protection of forest and to gender and social justice, and good governance” is including in the Constitution towards providing more rights to the users then it would be a very happy feeling of a federal state to all. Giving importance to preservation of forest, sustainable access, propounding principles of equitable distribution of benefits, management of community forest and lease forest at the local level based on structural laws, and the experience of local development activities, if a provision reading “the management, protection of community based community forests, lease forest, religious forest and private forest, and the equitable distribution of benefits received from its use, and the right and duties of enforcement of the forest management plan which do not come under the direct or indirect duty and rights of any of the Government shall be the duties and rights of the community to manage, protect soil conservation, watershed, afforestation and medicinal plants in all the community-based forests” is made in the Constitution, then environmental federal provisions is like to make additional contribution to the forest protection and community development works carried out by the community so far.

### **3.5 Protected Area**

It is a fact that local communities other than those with political and economic access have received lesser benefits in the past from the contribution made by Nepal in the conservation sector. So the Constitution should make provisions that would ensure equitable distribution of benefits received from the conservation sector to the local community, with official attention and priority to livelihoods and cultural rights.

It would appropriate to include in the new Constitution a provision stating “it shall be the right of the federation to declare areas into a national park, conservation area, hunting reserve and wildlife reserve”. Apart from including provisions reading “management of the protection of the conserved areas shall be the right and duties of all the federal, provincial and local governments” and “it shall be right and duties of the province to protect and develop the conserved areas”, if a provision stating “The federation should give special attention and priority to the livelihood and aspects of cultural rights of the poor indigenous/nationalities/women/dalits groups like the nomadic Raute tribe who have lost their identity and the community who have faced deprivation” is include, then it would provide essential guidelines to the federation, and give the communities living in the surroundings of the conserved areas a belief that the new Constitution is concerned with their livelihoods and cultural rights. Likewise, if a provision reading, “It shall be the duty of the federation to formulate laws related with the Convention on International trade of near-extinct wild trees/plants and wildlife species”, then there shall be a possibility of the Government fulfilling its duties under the Convention. Currently the local bodies have also been contributing to the management of the protected areas. In the new future, those bodies will fall under different provinces and that experience of management of the protected areas would be useful to the provinces. So, it would be very relevant and practical to have a constitutional provision reading, “The responsibility of management of the protected areas, areas protected by the community and the buffer zones shall be of the provincial or local government.”

For equitable distribution of the benefits received from the national parks, conservation areas, hunting reserve, wildlife reserve, a provision stating “The income generated from national park, conservation areas, hunting reserve, wildlife reserve through entry fees and others would be equitably distributed to the federal, provincial and local governments” would make the local

community feel that the new Constitution is supportive of the protected areas towards achieving environment justice for preserving the resources. The share of income currently enjoyed by the local users in the buffer zone should not be stopped. Apart from this a constitutional provision reading, “The local users of the concerned buffer zone and the local government of the buffer zone concerned shall have the right to equitable distribution in the income gained by the provincial government from the conserved areas” would be appropriate. Likewise if a provision stating, “Equitable access and use of the biodiversity, wetlands, buffer zone and protected areas based on the community’s knowledge, skills and practices, and equitable distribution of benefits received from the sector, and the communities who have been deprived in the policy making, decision making, monitoring and evaluation work on these issues shall have the rights and duties to meaningful and inclusive participation, without any discrimination based on socio-economic, cultural, religious, political and other status” is made in the Constitution then environmental federalism will be realized. Apart from this, if a provision is made that “the provinces shall carry out the implementation except for provision where it is mentioned that the Federation shall implement it” then there would be no problems in the enforcement later.

### **3.6 Mines, minerals and energy**

Resupply of renewable sources is possible only if sustainable use of environmental and natural resources is guaranteed and if sources are not exploited to the maximum. If the use is more than the average of availability of non-renewable resources, then it is sure that the resources would decline. As a result, it would be appropriate to ensure appropriate constitutional provisions for it.

If a provision with primary rights reading “It shall be the right of the federation to formulate laws related to the regulation, use, access and management of all big mines, minerals, mineral oil and petroleum, natural gas, coal, solar power, wind power, bio-gas and other organic fuel, uranium, gold mines” which have already been excavated or are yet to be excavated in the country and, “the concerned province shall received an equitable share of the benefits from the use of such goods” is made in the Constitution then it shall be a genuine feeling of a federal system of governance. If a provision is included stating that “It shall be the right of the province to formulate laws related to the use, access and management of all big mines and minerals other than the all big mines and minerals, mineral oil and petroleum, natural gas, uranium, gold mines located in inter-state” then it would be possible to manage, use and preserve through the concerned province all the big mines and minerals other than those under the authority of the federation. If a provision reading “other than the mines and minerals managed and regulated by the federation and province, it shall be the right and duties of the local government and local communities to formulate laws on the access, use and management of medium-scale mines and stones, sand and pebble on the ground” then it would encourage the local residents to become accountable to the management, protection and use of the resources. The environmental resources, goods and service would be properly managed, based on the principle of local necessity.

If a provision stating, “The right and duties to develop and promote environment friendly energy like ethanol, bio-diesel, bio-gas and briquette, solar, wind ..... energy, and equitable distribution of the benefits of such goods, and the communities who have been deprived in the policy making, decision making, monitoring and evaluation work on these issues shall have the rights

and duties to equitable, meaningful and inclusive participation, without any discrimination based on socio-economic, cultural, religious, political and other status” is made in the new Constitution then it would decrease the dependency on traditional forms of energy, utilize local means and resources to increase employment opportunities, and strengthen the local economy by stopping local funds from going outside the country with consumption of locally produced energy, and also export of energy, thereby consolidating the local economy.

### **3.7 Natural and Cultural Heritage**

In relation to preservation of natural, ancient memorial<sup>4</sup> and cultural heritage, it would be appropriate to include in the Constitution a provision reading, “It shall be right of both the federation and province to formulate laws concerning preservation, management and presenting to the future generation the natural and cultural heritage, and the federation shall formulate laws relating to the preservation and promotion of memorials older than hundred years old.” If there is a provision stating that “It shall be right of the federation to protect, manage and present it to the future generation the natural and cultural heritage listed in the world heritage list” and if laws are formulated and enforced as per the Convention on World Heritage, then it would mean that the Government has made an effort to fulfill its obligations under the Convention, and would also result in the importance of the Convention at the national and international level. Also if there is a provision in the Constitution reading, “It shall be the right and duty of the province to formulate and enforce laws relating to the preservation and promotion of the memorial less than hundred years old, that don’t fall under the definition of ancient memorial” then the federation can concentrate its time, labour, economic and technical resources in the preservation of ancient cultural heritage while the province follows suit with the comparatively newer cultural heritage. Likewise, if there is a provision stating, “the contribution of the general public to the preservation and promotion of the heritage though the laws formulated by the province shall be recognized” then effective preservation and management of ancient and cultural heritage would be possible at the local level itself. Likewise, a provision reading, “It shall be the duty and right of the local community to preserve the natural, religious, environment and cultural heritage at the community level” would encourage and provide a constitutional mandate for the communities to become more responsible in the preservation of natural and cultural heritage.

### **3.8 Land and Agriculture**

A provision in the Constitution stating, “The federation shall formulate and enforce laws relating to land ownership, determination of ceiling of land, encroachment of land for work of national priority, revival and geo-use, subsidy and concession in agriculture, agro crop insurance, technology and international trade regulation/access of agricultural products” would ensure proper distribution of land, one of the natural resource that people depend for livelihood. But this has been proposed based on the argument that the problem of unequal and inequitable distribution of land in the country needs to be resolved while giving the right to formulate laws, and on the possibility of different provinces introducing uniform laws.

A constitutional provision stating “It shall be the right of the federation to formulate laws relating to the operation, management, maintenance, use, access and management of inter-state irrigation projects” would ensure right use of land, and ease the provision of irrigation essential to increase productivity in agriculture. Likewise, it would be very relevant to have a

constitutional provision reading “The federation shall formulate laws on areas such as genetically modified species and quarantine, while the province shall enforce the laws.” The federation shall also formulate laws under the existing and future international convention on agriculture and land, while the provinces shall implement it. In the context of the irreparable loss caused to the environment due to increasing soil erosion, and declining national productivity leading to rise in food insecurity, a provision in the Constitution stating, “It shall be the right of the province to develop laws relating to management of land including development of land use system and plotting, and on big and provincial irrigation projects” would be helpful in resolving the aforementioned problems. It shall also play a positive role for the overall development of the country by bringing down equal or inequitable distribution of land, and by increasing the productivity of an agriculture-based country. If a provision reading, “The province shall have the right to decide on the transportation, production and use of chemicals in the name of agriculture development in the country” is made in the Constitution then it would help prevent any possible accident and pollution that could result from the use of unmanaged and uncontrolled chemicals. It would be suitable to environment federalism to include a provision in the Constitution stating that “It shall be the right of the local government to formulate necessary policies for food security and local agro market system and making agriculture community-based” as well as the provision reading “it shall be the duty and right of the community to manage, develop and harness agriculture cooperatives based on the community, collective farming, and fishery, animal husbandry, pasture land operated and managed in public and community land.”

### **3.9 Traditional knowledge**

The traditional knowledge, skills and practices of the nomadic Raute tribes including of the poor indigenous/nationalities/women/dalits, those who have faced deprivation and the local communities have not been identified or the state has rarely documented the knowledge of the users of environmental resources based on traditional knowledge and skills. The country has so far not made any effort to preserve and promote it. No legal mechanism has been formulated for effective national level preservation of the knowledge. Majority of the concerned individuals are found not well-informed about the provisions of the International Convention on identification, preservation and promotion of traditional knowledge, skills and practices. As a result, the measures of preservation and promotion of such knowledge, skills and practices as provided in the Convention have not seen the encouraging participation of the prior well-informed or the concerned community.

Only if the new Constitution comprises a provision stating, “The federation shall formulate the law on preservation and promotion of the traditional knowledge, skills and practices of the poor indigenous/nationalities like the nomadic Raute tribe who have lost their identity, and the local communities who have faced deprivation, and for the equitable distribution of the benefits from commercial or any kind of other use of such knowledge, skills and practices” it would give proper recognition to the users of environmental resources based on indigenous knowledge and skills of the poor indigenous/nationalities like the Raute who have lost their identity and the local communities. In the past, only to fulfill political and financial interests, people of the political level with limited access have gained inequitable benefits in the name of such communities. This should also be ascertained and the various international conventions on the traditional knowledge

of the indigenous, nationalities that have so far been ratified and those to be ratified in the future should be genuinely put into practice.

Going a step further if the new Constitution includes a provision, reading “The province shall have the right to formulate more progressive laws that would not have an adverse impact on the laws formulated by the federation” then it would provide the provinces the opportunity to formulate and enforce the best laws and programs to preserve and promote the traditional knowledge, skills and practices of the indigenous, nationalities like the nomadic Raute tribes who have lost their identity, and of the local communities. If the provinces too have the right to regulation and management in this sector, then it will pave the way to formulation and enforcement of laws and programs conducive to the knowledge, skills and practices of the indigenous nationalities living within the province.

### **3.10 Multilateral environmental convention**

It is evident to all that in the past in order to fulfill political and financial interests, people with limited access at the political level have led the nation to ratify various international conventions, but since they were not effectively enforced through the formulation of various laws at the national level, writ petitions were filed at the respected Supreme Court on various subjects. However, despite the decision it has not been enforced. Nepal is so far party to 22 conventions including the world heritage convention, the convention on the international trade of near-extinct wild trees/plants and wildlife species, the Ramsar Convention, Bio-diversity Convention, Climate Change Convention.<sup>5</sup> Nepal has various obligations under the Conventions. But as discussed earlier the obligations have not been fulfilled, so in order to make sure that such a sad situation is not repeated in the future and the Conventions ratified in the past are enforced effectively, if a provision reading, “The federation shall have the right to formulate laws for the enforcement of the commitments expressed in the multilateral and international environmental conventions at the national level and it shall be the duties of the province to effectively enforce such laws made by the federation” is included in the Constitution then real enforcement of such conventions ratified in the past and in the future would be possible.

### **3.11 Residual powers**

It would be very relevant to include a provision in the Constitution reading, “It shall be right and duties of the federation if it is mentioned in the Constitution and not held accordingly” for distribution of environmental resources, service and goods in any model of environmental federalism that the country finds appropriate to establish environmental federalism.

## **Conclusion**

As a result, in the circumstances where sufficient discussion has not been held about federalism one can say that environmental federalism has not been discussed at all or very few discussions have been held with many honourable Constituent Assembly members saying that they had not heard of it anywhere except at the program organized by IUCN. This shows that this subject has not been discussed with importance. There is a need of developing a common minimum model through extensive discussion and dialogue on this contemporary issue. So, the conservation

community should maintain a single voice and stance on this subject. Environmental federalism that has remained very behind at the political priority level should be kept as a major proposal of the political parties, and serious thought and deliberations is required on this subject. Considering this need, we all should be united to maintain a balance between progressive thought and historicism on the subject of environmental federalism and only when we are able to take environmental federalism forward with a unanimity among the Constituent Assembly members, representatives of political parties and the expert members of the Constitution Drafting Committee protection of environment in the real sense is possible. Only then the interests of the future general shall be secured.

**Annotations:**

1. “Waste” should be understood has liquid, solid, gas, fluid, smoke, dust, ray particles or any other such goods that have been emitted to degrade the environment.
2. Based on the radio interview of advocate L.B. Thapa with Shanta Basnet on Radio Sagarmatha on contemporary issues within Radio Khabarpatrika dated 2066 Baisakh 21.
3. Views expressed by participants of a dialogue and discussion program on Environmental Federalism hosted by the IUCN dated 2067 Baisakh 3.
4. Ancient memorial should be understood as human-made one hundred years old or older materials.
5. The preliminary draft report, 2066 along with the commentary based on the Concept Paper of the Constituent Assembly (2066), Committee on Protection of National Interests, CA, Singha Durbar, 74.