

# ISA S Brief

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## The Challenge of Ethnic Federalism in Nepal

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### Abstract

*Following the 5-point Agreement, on 29 May 2011, Nepal's main political parties – the Unified Communist Party of Nepal-Maoists (UCPN-Maoist), the Nepali Congress, and the Communist Party of Nepal-United Marxist Leninist – agreed to extend the Constituent Assembly (CA) by another three months. The promulgation of the constitution is seen as an important step forward in the country's struggle to facilitate a peace process. More importantly, the state restructuring process on the basis of ethnic parameters threatens to endanger national cohesion.*

The writing of the constitution, which has not been completed in the last three years, is expected to be drafted within the next three months – a feat that will strongly depend on the nature of negotiations and the extent to which the respective political parties are willing to compromise and reach a political consensus for the larger interest of the nation and its people. One key challenge that Nepal is encountering is the political incompetency to simultaneously address the various disputes. Both the promulgation of a new constitution, and the integration and rehabilitation of the People Liberation Army (also known as Maoist combatants) into the Nepal Army, continue to be sore issues. Importantly, the inability to resolve the ethnic-based federalism, formation of governance and state-restructuring, issues have intensified the inter-party and intra-party political tensions.

The successful completion of the constitution impinges upon political consensus of state-restructuring and the modality of a federal structure. The criteria and process of redrawing the internal boundaries and delineating federal provinces require massive cadastral projects that

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in turn require political will, compromise and consensus. This task is inextricably tied to the rise of identity politics with ethnic groups clamouring for fair representation in order to avoid the negative impact arising out of the 1990 constitution. Highlighting the limitations of the 1990 Constitution, David Gellner argued that the Bahuns and Chhetris continued to dominate the higher echelons of the state despite the constitution enshrining the rights of individuals and banning discrimination on the basis of ethnicity, caste and gender.<sup>2</sup>

During the period of the civil war, the Maoist insurgents galvanised minority ethnic groups and mobilised ethnic grievances to garner votes during the 2008 CA elections. The ethnicisation of politics is burgeoning in Nepal and it appears to shape the inevitable outcome of a political structure based on ethnic federalism. In particular, the Madhesi struggle that gained momentum in 2007, has gained significant political clout. Mahendra Lawoti argues that ‘if it had not been for the Madhesi movement, federalism would not have been incorporated in the interim constitution’.<sup>3</sup> Ethnic groups such as the Madhesi, Tharus, Magars, and Tamangs share similar sentiments about their exclusion from various organs of the state and the ethnic federalism that is perceived to create a base for competitive democracy. As such, this concept harbours the hope of reducing the preponderance of high-caste Hindus. However, the fruition of this is questionable since ethnicity, caste and class intersect in myriad ways thus undermining the possibility of ethnic equality and inclusive governance.

Arguably, the primary issue is not just about the promulgation of the constitution but the political direction that Nepal is headed towards – in the context of carving out the country on the basis of ethnic federalism. The ethnicisation of politics in Nepal has fuelled the inter-party and intra-party cleavages. In addition, the re-conceptualisation of provincial boundaries on the basis of ethnicity will undermine Prithivi Narayan Shah’s unification of the various states in 1769. In this regard, the political experiment with ethnic federalism will firstly, debilitate the consolidatory efforts of Prithivi Narayan Shah and secondly, bring a sharper focus to the ethnic differences among the various communities.

While there are imminent prospects for separatist movements to gain ground if ethnic federalism is not asserted, there is also a serious need to analyse the feasibility of such a structure. Federalism requires mature leadership which Nepal lacks, and dividing the country along ethnic lines will fuel inter-ethnic hostility. As an ethnically diverse country, a state structure based on ethnicity will, in principle, give credence to ethnic pluralism. However, it may not translate into inclusive governance and address all negative forms of exclusion. It is crucial that Nepal’s political leaders garner the support of the public to strengthen the prospect of organising the country based on ethnic pluralism.

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<sup>2</sup> David Gellner, ‘From Group Rights to Individual Rights and Back: Nepalese Struggles over Culture and Equality’, in Jane K. Cowan, Marie-Bénédicte Dembour and Richard A. Wilson (eds), *Culture and Rights: Anthropological Perspectives*. (New York: Cambridge University Press, 2001).

<sup>3</sup> Mahendra Lawoti, *Federal State-Building: Challenges in Framing the Nepali Constitution*. (Kathmandu: Bhrikuti Academic Publications, 2010), p.150.

Furthermore, the communist ideology that captured the imagination of the public is at risk of being undermined, due to Nepal's ethnic quandaries. The 'People's War' was fought on the basis of an ideological struggle to overthrow feudalism and the monarchy. The spirit of Maoism in Nepal evokes a sense of empowerment and resonates with the strong undercurrent of egalitarianism. During the inception of the communist movement, federalism was not on the political agenda for the UCPN-Maoist party. In fact, in 2007, when the parliament passed the interim constitution, 'there was no mention of federalism although the commitment to state restructuring was apparent'.<sup>4</sup> The centrality of the UCPN-Maoists leadership will change based on their ability to tactfully adapt to the challenge of ethnic federalism, whilst retaining their communist ethos.

In the process of undergoing a political revamp, Nepal faces the threat of a counter-revolution. Since 2006, the procrastinated transition for a 'New Nepal' has worn the patience of the people, which has far-reaching consequences in the long-run. There is overwhelming hype over the delayed constitutional writing process. However, a more critical question that needs to be addressed is the challenge of ethnic federalism as a form of governance, in the light of Nepal's fledgling roots in democracy. Amidst unending party politics, experimenting with a new political structure will sink Nepal into a deeper turmoil. Within the context of an upsurge in ethnic politics, it is integral for political actors to reconcile their various rightist and leftist ideologies and undertake a pragmatic approach in their state restructuring process.

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<sup>4</sup> 'Nepal: Identity Politics and Federalism', *International Crisis Group* (13 January 2011), p.8.