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Fiscal & Financial Commission

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State restructuring in Nepal should be a vehicle for socio-economic advancement and means to achieve sustainable, equitable and just development, which would ensure social justice and equity. To achieve this, it is essential for fiscal federalism to occupy top priority in state restructuring debates. However, the Thematic Concept Papers prepared by respective Thematic Committees of Constituent Assembly (CA) seem to be short of such a vision. For example, the CA Committee for Determining the Structure of Constitutional Bodies did submitted its report to the CA and the first round of discussion on it has also been completed. The Committee envisioned eleven commissions as constitutional organs, though some of them are redundant as well. Significantly, the report did miss to envisage the formation of a Fiscal and Financial Commission (FFC). FFC must find a place in the new federal democratic constitution and its powers and functions laid down. FFC Act, compatible with the new constitution, must also be enacted.

RATIONALE OF FFC

Nepal is currently facing three kinds of crises. The first crisis is unequal representation of various castes, ethnicities, cultural groups, regions and gender in politics and government. It is a political dimension of the crises facing the country.

The second crisis is lack of recognition of many cultures in the national identity. This is the societal dimension of the crises.

The third crisis is fiscal and spatial disparities within the state. Some parts are affluent in resource endowment, infrastructure and socio-economic development; conversely others are deprived of these. The vertical and horizontal economic imbalances and spatial inequalities in development are basic characters of Nepali economy. This is the economic dimension of the crises.

Formation of a FFC will particularly address the third crisis i e spatially unbalanced and economically inequitable development in the different geographical areas. These problems can only be addressed through fiscal and spatial equalization. By assigning public revenue, expenditures and conditional grants, fiscal disparities could be minimized and greater degree of equalization could be acquired among the sub-national and local tiers of governments. For this, the role of FFC is crucial.

The constitution will probably be finally promulgated next year. The new constitution should be a living document that contains political compromises, a range of checks and balances, and innovative institutions with specific purposes of serving as guardians of 'infant federal democracy'. FFC must be viewed in this context. It must be instituted to provide advice with respect to the equitable sharing of revenue and other intergovernmental fiscal matters and to limit

subjective political decisions regarding the allocation of public resources in the spheres of national, sub-national and local governments in the future.

Fiscal and Financial Commission must find a place in the new federal democratic constitution and its powers and functions laid down. FFC Act, compatible with the new constitution, must also be enacted.

FFC should be a statutory institution in the federal constitution of Nepal. It should be a permanent expert commission with a constitutionally-defined structure, legal set of generic responsibilities and institutional processes. It would deal with intergovernmental fiscal relations and financial matters in federal Nepal.

FFC will act as an advisory body and it should have mandate to make recommendations on financial and fiscal matters to federal and sub-national legislatures, and other institutions of government as and when necessary. FFC would be an independent, autonomous and a separate constitutional organ, and therefore will perform impartial checks and balances between the three tiers of government. It will facilitate the governments on intergovernmental fiscal matters such as public revenue, public expenditure, intergovernmental grants and smooth development of capital and money market in the federal setup.

CONSTITUTIONAL RESPONSIBILITIES OF FFC

FFC would be required to render advice and make recommendations to all relevant legislative authorities regarding their financial and fiscal requirements. The advice and recommendations would concern issues such as fiscal policies of government at all tiers, fiscal allocations to governments, taxes that sub-national and local governments intend to impose, borrowing by local and sub-national governments and criteria to be considered in determining fiscal allocations if any. The first point of contact with the legislatures would generally be the FFC at both the sub-national and federal level.

The FFC Act should be passed once the constitution is promulgated and the FFC is established. It will be consulted and their recommendations considered. The FFC should also be allocated specific functions through other legislations in accordance with the constitutional provisions. Notably these types of legislations may be the Borrowing Powers to Sub-national Governments Act and the Intergovernmental Fiscal Relations Act. In terms of the Borrowing Powers of Sub-national Government Act, the FFC may make recommendations on amounts loaned to sub-national governments by the federal government and make recommendations on the total amount of interest that a sub-national government may incur on its expected outstanding debt during the fiscal year.

In the same way, in terms of the Intergovernmental Fiscal Relations Act, the FFC will attend meetings during the budget preparation process of the federal, the sub-national and local governments. Second it will make recommendations on revenue sharing and allocation of money, and third it will make recommendations on the Division of Revenue Bill of the federal government.

INTERNATIONAL EXPERIENCES

FFC in South Africa is permanent in nature. At least 10 months before the start of each fiscal year, the commission usually submits its recommendations on fiscal alterations for that fiscal year in both Houses of Parliament and Provincial Legislatures. The commission provides recommendations on the division of revenue between nine provinces, the conditional or unconditional allocations to provinces or local governments out of the National Revenue Fund.

In India, the president orders the constitution of a Finance Commission which consists of a chairperson and four other members appointed by him/her. The duty of the commission is to make recommendations to the president as to the distribution between the Union and the States of the net proceeds of taxes, which are to be, or may be, divided between them under the constitution and the allocation between the states of the respective shares of such proceeds.

In Nepal, we cannot overlook the need of a FFC in order to make fiscal federalism work properly like in South Africa. It is a must keeping in mind the fiscal and spatial disparities in the country.

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