

# LoGICA Intergovernmental Profile

## Nepal, 2023

### 1. Country description and state of decentralization

*The federal democratic Republic of Nepal is a landlocked country in South Asia, marked by an astounding diversity of languages, ethnicities, cultures, and geographies within its relatively small borders. According to the Census (2021), Nepal has a total population of 29.1 million within a land area of 147,516 sq. km. In 2015, Nepal promulgated a new federal constitution through an elected Constituent Assembly. Through the new constitution it adopted a decentralized, cooperative federal system of governance, moving away from its strong monarchical traditions and centralized system of governance, bringing much hope for economic empowerment, social transformation, and an inclusive society after decades of political struggles, including an armed conflict. The constitution restructured Nepal into a federal republic, providing for federal, provincial, and local government institutions, each with constitutionally defined political structures and powers, as well as constitutionally assigned exclusive and concurrent functions and responsibilities.*

The Constitution of Nepal 2015 envisions a cooperative system of federalism, with a non-hierarchical relationship between the autonomous levels of government. The level of interdependence envisioned by the constitution demands a broader understanding among all three levels of government to perform roles and functions listed under concurrent competencies. For this reason, the constitution envisions a strong intergovernmental relationship guided by the principle of “coordination, cooperation and coexistence”.

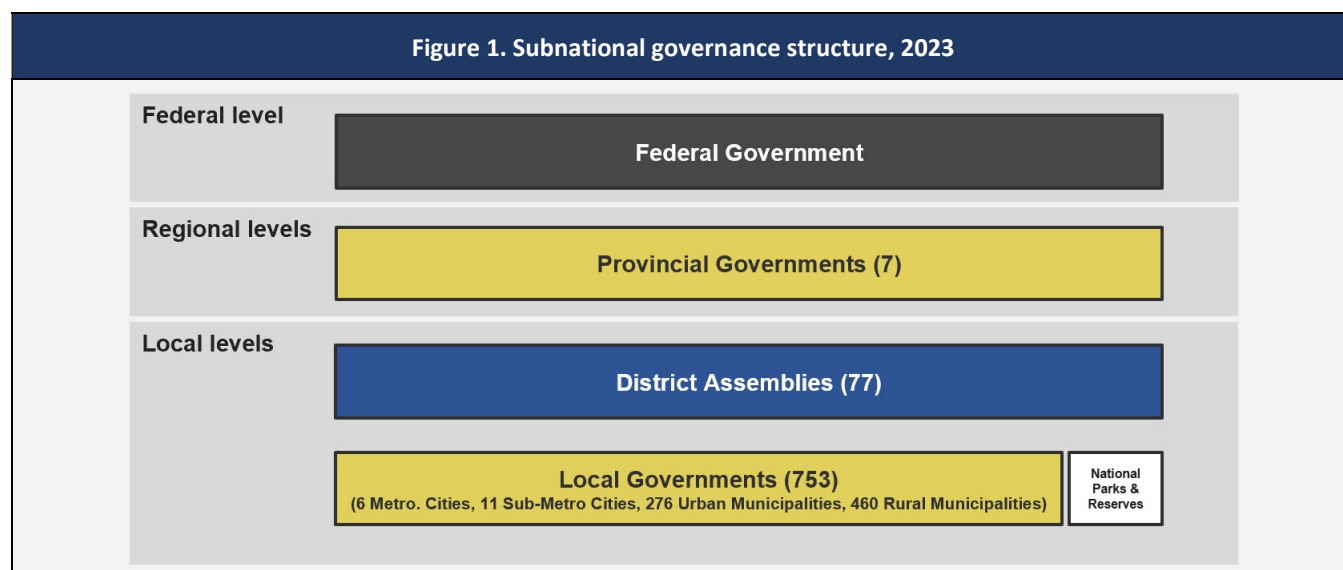
Although, per the Constitution of Nepal (2015), provincial and local governments have extensive authority and autonomy in terms of political, administrative, fiscal, and public service provision responsibilities, in practice, there are considerable gaps between the implementation of those provisions as mandated by constitutional vision and the current (*de facto*) situation, which retains many elements of the previous deconcentrated system.

### 2. Subnational governance structure of Nepal

*The Constitution prescribes a federal system with three levels: a federal government, province governments, and local governments. The Constitution defines the governance arrangements of governments at each level, and grants governments at each level exclusive and concurrent (shared) powers. Provincial and local governments have their own directly elected leadership, raise their own revenue (although they are mostly dependent on fiscal transfers from the federal government), formulate and implement plans and programs, and can—by law, but not yet in practice—manage their own human resources. Constitutionally, district assemblies and district coordinating committees are established as coordination units among local governments, and as mechanisms for local governments to coordinate with federal and provincial governments. In practice, the federal government retains a strong deconcentrated administrative presence at the district level.*

The subnational governance structure of Nepal was fundamentally restructured as a result of the implementation of the 2015 Constitution. Prior to the adoption of the new constitution, Nepal was divided into 75 districts. Although each district was notionally led by a District Development Committee (DDC), in practice, districts functioned like deconcentrated administrative entities. Below the district level, subnational governance was entrusted to close to 4,000 Village Development Committees (VDCs) in rural areas and over 100 municipalities in

urban areas. The 2015 Constitution transformed the structure of Nepal’s public sector into a multi-party, federal, democratic, republican, and parliamentary system based on pluralism. The federal governance structure includes newly-defined provincial and local government levels, with coordinating bodies at the district level. Figure 1 and Table 1 present an overview of Nepal's current subnational governance structure.



**Table 1. Subnational governance institutions, 2023**

	Number of units	Complete territorial coverage?	Uniform structure	Territorial Level	Nature of Level / Type
Federal government	1	Yes	-	Central	-
Provincial governments	7	Yes	Yes	Regional	Hybrid
District assemblies	77	Yes	Yes	Local	Non-dev.
Local governments	753	Yes	Yes	Local	Hybrid
Wards	6743	Yes	Yes	Local	Non-dev.

**Federal government:** The Constitution defines a federal government with a President and Vice-president and recognizes the President of Nepal as the head of State. The President is elected by an electoral college composed of members of the Federal Parliament and of the seven province assemblies. Federal executive power is vested in the Council of Ministers. The president appoints the leader of a parliamentary party that commands the majority in the House of Representatives as the Prime Minister, and the Council of Ministers is constituted under his or her chairpersonship. The Federal Parliament consists of the 275 member House of Representatives (HoR) and the 59-member National Assembly (NA). Powers related to justice are exercised by courts (Supreme Court, High Court and District Court) and other judicial bodies in accordance with the Constitution, other laws and recognized principles of justice.

**Provincial (or state) governments:** The Constitution defines seven provincial (or state) governments: Sudurpaschim, Karnali, Lumbini, Gandaki, Bagmati, Madhesh and Koshi. The province is both the first territorial-administrative subdivision of Nepal as well as the first subnational governance subdivision. Provincial governments are led by a Chief Minister and a provincial legislature. The executive power of the provincial government is vested in the provincial Council of Ministers. After each election, the Head of Province (who is the

representative of the Government of Nepal in each province) appoints the leader of the parliamentary party commanding a majority in the Provincial Assembly as the Chief Minister, and the Provincial Council of Ministers is constituted under his or her leadership.

The legislature of the province is a unicameral body called the Provincial Assembly. There have been two rounds of provincial elections so far (2017 and 2022). The Office of the Chief Minister and Council of Ministers (OCMCM) is the central coordinating ministry within the provincial executive while the Provincial Planning Commission (PPC) is typically responsible for formulating provincial plans and development policies. The highest-level bureaucrat in the province is the Principal Secretary, who is appointed by the federal government, as is the case with secretaries of all provincial ministries.

**Local governments:** The secondary subnational governance level of Nepal is formed by the local government level (urban municipality and rural municipality). The number and boundaries of local governments were determined by a constitutional commission for local level restructuring in 2017. Based on the Commission's proposals and subsequent negotiations with the federal government, 753 local governments were established, including six metropolitan cities, 11 sub-metropolitan cities, 276 municipalities, and 460 rural municipalities. Municipalities are headed by a chairperson and vice-chairperson in the case of rural municipalities and a mayor and a deputy mayor in the case of urban municipalities (including metros and sub-metros). The executive power of the local level is vested in the Municipal Executive while the legislative power is vested in the Municipal Assembly. The Municipal Assembly consists of the elected Chairperson and Vice-Chairperson (or Mayor and Vice-Mayor), along with the elected Ward Chairpersons, four members elected from each ward, as well as assembly members elected from Dalit and minority communities. The highest-level bureaucrat in the municipality is the Chief Administrative Officer (CAO), who is appointed by the federal government.

As part of the local government, 6,743 wards are established as political subdivisions of the local government. Each ward has a five-member Ward Committee comprising locally elected ward chairperson and four ward members, including two women members. As noted above, all ward members are members of the Municipal Assembly. In addition, the ward chairperson is also member of the Municipal Executive.<sup>1</sup>

**District assemblies and coordinating committees:** In the previous unitary system, Nepal was divided into 75 districts, and the District Development Committee (DDC) was the main vehicle for decentralization at the district level. As part of the constitutional state restructuring process, two districts were split resulting in 77 districts. These 77 districts are defined by the constitution as geographic subdivisions of each province. To ensure proper coordination among local governments and between local governments and other levels, the constitution provides for district assemblies where locally elected representatives (Mayor/Deputy Mayor of urban municipalities, Chairperson/vice chairperson of rural municipalities) function as the members of the district assembly. The district assembly further has its own executive organ known as the District Coordination Committee (DCC), a nine membered committee elected by the district assembly, and recognized as the executive of district-level coordination efforts.

In practice, the federal government has been reluctant to share its powers with the subnational governments and has retained deconcentrated outposts at the district level essentially serving as parallel offices, limiting the local governments' work and creating further confusion regarding the functioning of local governments.

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<sup>1</sup> Carrying forward practices from the previous system, many local governments initially set up ward offices / ward committees as spending units of the local government. In fact, as a transitional measure, the Local Government Operations Act (2017) assigned not only governance and oversight responsibilities to ward committees, but also planning, implementation, data management, development, and regulatory functions as well. Given that ward members and chairmen are part of the municipal assembly (which approves the municipal budget), they can thus delegate municipal spending authority to themselves at the ward level.

### 3. Nature of subnational governance institutions in Nepal

*Although neither the Constitution nor federal legislation explicitly mentions that provincial and local governments are corporate bodies, they are designated as autonomous legal entities and enjoy powers and responsibilities similar to corporate bodies, holding perpetual succession with their own elected leadership, (de jure) autonomy in decision-making power and administration, and constitutionally defined revenue assignment and functional responsibilities. In practice, however, the federal government has been reluctant to relinquish its powers over concurrent functions and over certain aspects of subnational government administration. For instance, despite provincial and local government level having constitutional autonomy, the federal government appoints the Principal Secretary and Secretaries of every Province, every District Coordination Officer, and the Chief Administrative Officer of every local government. The federal government has further delayed critical legislation that would allow subnational governments to independently recruit and manage their own local civil servants. As such, the federal government has given itself sweeping authority—as an open-ended transitional provision—to allow itself to depute any employee working in civil service at the local level to local governments.*

Although it is safe to say that Nepal’s Constitution intends to have devolved subnational governments at the provincial and local levels with extensive powers and responsibilities, in practice, Nepal has yet to complete the process of federalization by enacting framework laws and transferring human and discretionary financial resources necessary to create an enabling environment for subnational governance to operate as per its jurisdiction.

	<b>Province</b>	<b>Local Government</b>	<b>District Assembly</b>
<b>Corporate status (de jure)</b>	Yes	Yes	Yes
<b>Corporate status (de facto)</b>	No	No	No
<b>Engages in governance functions</b>	Yes	Yes	Yes (Coordination)
<b>Own (elected) political leadership</b>	Yes	Yes	No
<b>Own assets and raise funds in own name</b>	Yes	Yes	Yes
<b>Prepare, adopt, and manage their own budgets</b>	Yes	Yes	Yes
<b>Incur liabilities by borrowing on their own account</b>	No	No	No
<b>Appoint own officers and staff</b>	No	No	No
<b>Nature of subnational governance institutions</b>	Hybrid	Hybrid	Non-devolved

**Provincial governments:** Nepal’s Constitution states that the federal, provincial, and local levels shall make laws, adopt an annual budget, and formulate and implement policies on matters related to their respective competencies and fiscal powers (Article 59). It can therefore be inferred that the Constitution intends provincial governments to operate as constitutional entities with corporate status.

Provincial governments represent a completely new level of government in Nepal’s experience, and when elected provincial leaders came into office in January-February 2018, they assumed office without foundational policy framework and many provincial institutions in place. An organization and management (O&M) survey conducted by the federal Ministry of Federal Affairs and General Administration (MoFAGA) in March 2018 approved around 676 different agencies (ministries, directorates, divisional and district offices, and project offices) in the provinces either to be transferred from the federal agencies or to be newly established. This O&M survey also recommended the transfer or “readjustment” of civil servants, because of which nearly 14 percent of the 99,571 civil servants

were seconded (“adjusted”) to provinces, while 44 percent of civil servants was sent to the local government level. The remainder was retained at the federal level.

All seven provinces have formed a Provincial Public Service Commission (PPSC) mandated to recruit province and local level employees. Pending the adoption of federal civil service legislation that changes the employment status of seconded federal civil servants, PPSCs lack authority over the vast majority of the provincial and local government workforce. Nonetheless, the PPSCs of a few provinces have started to recruit the staff as requested by their respective provincial and local governments.

Although provincial governments should have the ability to appoint and employ their own officers and staff, as noted above, the Principal Secretary of every Province as well as secretaries of provincial ministries are federally appointed. Most of the current provincial government officers and staff are seconded by the federal government. Provinces are led by a directly elected subnational executive and an elected subnational council. Even though provincial governments have a degree of autonomous decision-making power within the context of a collaborative federal structure, the centralized mindset, federal overreach and different elements of the previous centralized system persist. For instance, federal government officials provide guidance and advice to subnational governments on a range of issues, and there is an expectation that provincial governments align their provincial development plans to serve national political interests and priorities of the federal agencies.

Provinces are assigned revenue powers which include tax and non-tax sources and royalties from natural resources but are required to share all but one source of provincial tax revenue with their local governments. Most provincial resources are derived from federal revenue sharing and federal equalization grants; the share of own-source revenue (OSR) in provincial budgets averaged 14.5% in 2020/21. Vehicle tax and house and land registration fees, which are sharable between the province and local governments, make up the largest chunk of provincial OSR. Although provinces can *de jure* raise domestic loans, they are *de facto* not able to do so yet, as a legal framework for it is yet to be established.

**Local Governments:** As with provincial governments, it can be inferred from Article 59 that the Constitution intends local governments to operate as constitutional entities with a degree of institutional autonomy similar to corporate status.

Like provinces, local governments are assigned both exclusive and concurrent powers and functional responsibilities, including the provision of basic and secondary education, basic health services, municipal police, cooperatives, local roads, and a wide range of other functions. In almost all functional areas, however, the federal government continues to play an extensive role. Beyond the fact that the federal government controls the frontline service delivery staff in the education, health, and agriculture sectors (as these local services are provided by seconded federal employees), many of the sectoral regulations from the previous centralized system have simply been carried forward into the new federal structure. For instance, there are overlaps in the regulation of schools, operation of technical and vocational training, and the management of schoolteachers. Local governments frequently complain about federal heavy-handedness in education policy, citing the much-delayed enactment of the federal education act (being debated in the federal parliament), which has hindered effective devolved delivery of basic and secondary education.

Beyond the realm of functions over which federal sector ministries claim concurrent power (either through direct interventions, or by indirect control through conditional grants), local governments devise and implement their annual plans and programs. Their main source of income for local governments is fiscal transfers from the federal and provincial governments. They are assigned with revenue powers which include tax and non-tax sources and royalties from natural resources. The share of own-source revenue in local government budgets averages less than ten percent. Despite the legal power of local governments to define their organizational structure, the organization and management (O&M) framework suggested by the federal government in 2018 continues to be

in practice in most local governments, which does not address the evolving needs of local governments. Some local governments have started to update their own O&M survey and ask the PPSC to recruit necessary staff for them.

**Wards:** Each local government consists of wards, which are an internal political subdivision of the local government. Politically, administratively, and fiscally, wards are part and parcel of their respective local governments and enjoy deconcentrated powers and responsibilities of the municipality. As such, they should not be considered devolved local governance institutions in their own right. Nonetheless, from a governance perspective, the Ward Chairperson and the Ward Committee are often the political face of the local government within the community. Among other things, ward leaders are often heavily involved in community development activities, while wards provide vital registration, authentication, recommendation and referral functions, and are revenue collection points for the municipality.

**District Assemblies:** Each District Assembly along with its Coordination Committee is a constitutionally recognized political entity that is mandated only for coordination between and among the tiers of the government. Given that the assembly is formed by elected representatives its constituent local governments, it should not be considered a devolved governance level in its own right. There is little clarity on its administration, or financial responsibilities, and they were created mainly to preserve the historical notion of districts, and in some sense, 'district identities' that still resonate with people. However, its mandate is limited to coordinating among constituent municipalities and between the province, federal and local governments. Funds for district assemblies are provided by the federal and provincial governments.

Some of the district offices continue to be operated by the federal government and newly established provincial line offices, ostensibly because local governments may lack capacities or technical competencies required for service delivery. For example, District Administration Offices (DAO) are deconcentrated units that federal government operates as parallel units overstepping jurisdictions of provincial and local governments. The District Administration Office (DAO), which is part of the Federal Ministry of Home Affairs, continues to oversee the police, whereas local public security lies in the exclusive jurisdiction of local governments.

Other examples can be seen in education, agriculture, local infrastructure, and forestry. These federal and provincial district offices are funded as part of their respective sectoral ministries, and staff at these district offices continue to be employed by the federal government. As an example, basic and secondary education are the exclusive domains of local governments, but the federal government continues to operate the District Education Coordination Office (DECO), thus circumventing the intent of the constitution and limiting the role and autonomy of local governments. Local governments have *de facto* little or no control over the management of teachers and even their salaries and benefits are paid by local governments through conditional grants from the federal government.

#### **4. Assignment of functions and responsibilities in Nepal**

*The constitution grants all three levels of government exclusive and concurrent powers and functional responsibilities (Schedules 5 to 9). There are overlaps and inconsistencies in the exclusive as well as concurrent powers of the three levels of government listed in these constitutional schedules, especially in key sectors including education, health, agriculture, livestock, forest and physical infrastructure development. Attempts to bring more clarity on the roles and functions of each level include an unbundling exercise of the exclusive and concurrent powers, the business allocation rules of the federal and provincial governments, and the Local Government Operation Act, 2017. Although the broad range of concurrent powers among the three levels are subject to interpretations by federal laws, most federal sector ministries have yet to develop sector legislation that conforms to the new constitution. In the absence of legislation operationalizing the assignment of functions*

***for key concurrent functions, the federal government continues to dominate—directly or indirectly—the delivery of many public services that are arguably assigned to provincial or local governments.***

Nepal's constitution aspires for devolved subnational governments that provide frontline public services to their constituents and work with each other in many areas in the spirit of collaborative federalism. However, the legacy of a strong central government and a 'centralized mindset' and federal overreach tendency among the political elite has caused the federal government to drag its feet in enacting necessary legislation that would pave the way for effective devolution of functional responsibilities. After eight years of the promulgation of the constitution, a second round of unbundling exercise is currently being conducted to bring more clarity to the roles and functions of each level of government and remove existing overlaps and inefficiencies. Foundational legislation is also being debated in the federal parliament that would formalize the devolution of key public sector services like health, education, the adjustment of the police service.

In the absence of such legislation and clarity, the federal government currently has *de facto* powers over almost all sectors, even in areas supposedly under the exclusive jurisdiction of provincial and local governments. For example, while basic and secondary education falls under the purview of local governments, it is the federal government that is ultimately responsible for managing the recruitment and transfer of teachers and paying their salaries (through conditional grants to local governments). Similarly, the responsibility of registration, licensing, and regulation of nursing homes and health institutions is not yet transferred to the province and local governments per their changed roles. The federal government is also dominant in setting the conditions and allocating budgets for disease control, immunization, nutrition, and family planning, despite the devolved roles to province and local governments. Front line services are thus being provided by the local governments as an agency function on behalf of the federal government and provincial government but with inadequate funds and functional autonomy. Provincial governments share with local governments functions related to agriculture and livestock development, but the federal government has been reluctant to release its strong hold over these functions, funds, and functionaries.

**Federal Government functions:** The federal government is responsible for a host of public sector functions, including Defense and Military, Central Police, Armed Police Force, National Planning, Central Bank, Foreign Affairs, Telecommunications, Federal Civil Service, International Trade, Civil Aviation, etc.

As noted above, in other areas of development and frontline service delivery, such as in education, health, social security, and infrastructure development, the federal government shares concurrent powers with provincial and local governments, which has helped consolidate federal control over the various development functions.

**Provincial government functions:** Provinces are assigned with exclusive functions including the administration of provincial police, banking and financial institutions, operation of radio, FM, and television, provincial statistics, trade and industry, provincial highways, vehicle management, and transportation. These exclusive powers vested to the province government also overlap with the mandates of the federal government, limiting the functional autonomy of the province government. Provinces also share concurrent powers with federal and local levels in the areas of health, agriculture, hydropower, drinking water, irrigation, forest, environment, mines and minerals, social security, vital registration, etc.

**Local government functions:** Local governments *de jure* have exclusive jurisdiction over basic and secondary education, basic health and sanitation, agricultural extension, and numerous other functions. They also share concurrent powers with federal and provincial governments in the management of cooperatives, the provision of education, sports, health, agriculture, and so on. Local governments provide business registration and permits, route permits for public vehicles, and operate parks and recreation areas. Vital registration services such as the registration of birth, death, or marriage are often provided by the ward offices by a Local Registration Officer, an

employee of National Identification Card and Registration Division of the Federal Ministry of Home Affairs. A few municipalities have started the mobilization of town police.

**District assembly functions:** The role of district assemblies is limited to coordination affairs among local governments and provincial and federal governments, facilitating dispute resolution, and monitoring of development programs and projects in the district.

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