1. Introduction

In a country with federal structure, legislative rights over environmental resources, services and goods are divided or shared between the federal or central, state or provincial and local government, along with subjects such as international relations, income tax, revenue. In the constitutions of federal nations, rights are explicitly described to the extent possible.

2. Model of Federal Structure

There have not been much thinking, deliberations and discussions on what will, or should be the shape of the Constitution of Nepal in the federal structure. On top of that, discussions are rare on the topic what would be appropriate for the sharing of environmental resources, services and goods between the federal, provincial local governments in a federal structure. Worldwide, various models of federal structure have developed and different models have been adopted by the constitutions of different countries. A study of federalism shows development of particularly the following four models:

a. Central federalism: The proponents of central federalism are of the opinion that, under central federalism, the federal government should enact necessary policies, regulations, and laws for solution to the environmental problems.

b. Devolved federalism: According to the proponents of devolved federalism, the most appropriate solution to the environmental problems is only possible through provincial and local agencies. Therefore, it would be apt to grant the rights to environmental resources, services and goods to provinces and local agencies.

c. Dual federalism: According to the supporters of dual federalism, the formulation of environmental policy, rules and laws of the federal and provincial governments must be quite clear or explicit and different rights.

d. Interactive federalism: According to the intellectuals in favour of interactive or cooperative federalism, the respective roles regarding the formulation of environmental policy and laws of the federal, provincial and local agency or government must be discharged by remaining within their own jurisdictions.

Each of these four models of federalism or federal form has its own strengths and weaknesses. According to the advocates of central federalism, this type of environmental federalism is considered effective for the prevention and control of the pollution generated by two or more provinces and inter-country pollution, as well as in resolving other related problems. According to them, the uniform federal standards related to the environment offer prior certainty and clarity. However, the critics of central federalism criticize it for having low people's participation, lack of flexibility, innovative ideas could not found the places for resolution of environmental problems, lack of ideological diversity, as well as domination or free riders of politicians. Devolved federalism offers possibility and inspiration for exploring and experimenting with innovative thoughts and innovative ways for resolution of environmental problems. The advocates of devolved federalism claim that it offers flexibility for adjusting the local environmental problems and local conditions with the already enacted or coming laws, policies and rules. The experts on this model of environmental federalism believe that it has the capacity for maintaining at least the minimum standards of human health and environmental

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* This Policy Brief was presented on 16 April 2010 at a dialogue and discussion programme entitled Environmental Federalism, organized by the International Union for Conservation of Nature (IUCN) for representatives of political parties, honourable members of the Constituent Assembly, members of IUCN Nepal National Committee, members of the Steering Committee of the Environmental Rights Inclusion Project in New Constitution, representatives of organizations working in the conservation sector and media persons.

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resources. Economic or physical priority receives priority in this. However, between the provinces there is the risk of 'race to the bottom' instead of competing for the first or second positions by formulating sound and quality environmental standards.

Under dual federalism, both federal and provincial governments have the right to enact laws. The federal and provincial governments have quite clear-cut and different rights to enact environmental laws. The followers of dual federalism are of the opinion that it provides a situation of power balance and maintains dual security. On the contrary, it is argued that it is very difficult to watch the jurisdictions of the federal and provincial governments, the ambiguity for the adjudicating authority over jurisdictions and lack of coordination, inadequate resources for provinces for implementing the federal programme.

Interactive or cooperative federalism, as apart from incorporating the advantages of central, devolved and dual federalism or federal models, minimizes all these weaknesses and disadvantages, is considered appropriate for resolving national and international environmental problems. It promotes plurality and dialogue, as a result of which, along with enhancing of new ideas and competitive reach or ways, equity and accountability are maintained. Since all three governments-federal, provincial and local are endowed with the role of enacting environmental law, there is also the possibility of overlapping of these rights and over-legislation. The opponents of interactive or cooperative federalism contend that such laws enacted in an inefficient and ambivalent manner result in more time being taken for resolving environmental problems. In spite of its positive features, experts are of the opinion that, it is not easy to apply interactive federalism only instead of the other three federalism models mentioned above.

3. Sharing of Environmental Resources in a Federal State

In a newly established federal state like Nepal discussions have not been held at all or have rarely been held on the question sharing of environmental resources, goods and services between the federal, provincial and local governments based on the four models of federalism described above. In this context, while discussing any model, it would be appropriate to remember and consider the fact that, since more than 85 per cent of citizens of the country are still dependent on environmental resources, services and goods for their daily livelihoods, it would be appropriate to seriously accord priority to this subject or issue. It is necessary to discuss and deliberate the four models of federalism mentioned above, in the following manner so that they are useful in the context Nepal to the extent possible.

3.1 Environment

If the right to enact laws relating to environment conservation and pollution prevention and control is entrusted to the Federal Government, uniformity can be maintained in the area of environment conservation. On the other hand, if this role were entrusted to provinces, there might be competitions for reaching the bottom or last instead of formulating good quality environmental standards, as the opponents of devolved federalism claim. Consequently, the possibility of development of industries, factories and other physical infrastructure taking place at the cost of the environment increases. As many provinces can formulate extremely loose or weak environmental standards in order to attract industries and factories to their provinces, it would be appropriate to insert a provision in the constitution, ‘the right to enact laws in respect of environment conservation, pollution prevention and control, environmental impact evaluation and environmental standards shall be that of the Federal Government’. In this context, it would be appropriate to include in the Constitution the provision, ‘the provincial and local governments shall have the right to enact more progressive and higher quality laws in respect of environment conservation, pollution prevention and control, environmental impact evaluation, and environmental standards than those of the Federal Government’.

Most of the international multilateral environmental conventions and treaties ratified by the state are at a very weak stage of implementation. Only if the provision in relation to the international conventions to which Nepal has become a party to comply with the principles of environmental sustainable development, the federal government shall have the right to enact necessary laws and the provincial governments shall enforce them, and the provincial governments shall have the right to enact and implement environmental impact evaluation and environmental standards, enacted by considering and assessing the need for resolving the global environmental problems, the possibility of ensuring the enforcement of such provisions in practice to the province level would increase.

The fact of the accelerating consumerism in most cities and urbanizing villages of Nepal having diverse negative impact on our scenic, clean and healthy natural, physical, biological, human, aquatic, vegetation, ecological system is evident at local, regional, national and international level through the modern communication edia. Owing to the problems in the management of garbage1 in most of the big cities of Nepal, especially Kathmandu valley, garbage could not be cleared in Kathmandu valley in recent days, for example, for 64 days between 2006 and 2009 May: continuously for 19 days in March 2009, 13 days

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1 ‘Garbage’ refers to liquid, solid, gaseous, sediment, smoke, dust elements or matters or similar other substances.
in April and 9 days in May 2009. It is evident to all that garbage could not be lifted in Kathmandu valley due to non-compliance of the understanding between the local residents of the dumping site and Kathmandu Municipality, Lalitpur Sub-metropolitan and Government of Nepal, Ministry of Local Development. The legislative right necessary for proper management of garbage should be granted to the local government in the forthcoming constitution so that no citizen of the federal state is terrorized by the unexpected conduct and behaviour on the party of any body due to this almost daily problem. Therefore, if the provision of both the right to enact Act, rules, policy and programmes concerning garbage and the duty of their implementation shall be that of the local government' should be included in the new constitution, it would be possible for the local government to properly manage garbage.

3.2 Climate Change

If the right to enact necessary law in respect of climate change is granted to any single level, it would be very difficult to substantially contribute to resolution of problems. The right to frame rules and laws related to climate change should be at all three levels: federal, provincial and local. However, it would be appropriate to insert a provision that, if the provincial or local government enacts laws that are inconsistent with the federal laws or if the local government enacts laws that are inconsistent with the provincial laws, the law would automatically be null and void to the extent it is inconsistent.

Inserting a provision that 'the federal government shall maintain documentation of the regulations about the national industries based on environmental resources, taxes on goods and services relating to such environmental resources, and related data and publish them' would help maintain the original data on taxes on goods and services related to the resources, including industries relating to environmental resources. Incorporation of provision of issues like ‘laws of environmental resources at all levels, development of holistic plans, procedural, structural, coordination in decision making process, introduction of necessary provision for monitoring, issues that may affect seriously in the livelihood either directly or indirectly in the constitution for sustainable management of environmental resources, to maintain environmental good governance, conflict between community depending on environmental resources for their livelihood and local, provincail and federal governments, federal-community, federal-province, province-province and inter-state shall be managed by all jointly based on referendum would simplify exercise of obligation and rights of the government and community concerned in the management and conservation of environmental resources at all levels.

3.2 Water Resources

Clear-cut provision in relation to sharing of water resources in the federal structure would clarify the management-related rights over environmental resources between the federal, provincial and local governments. Consequently, it would contribute to water resources conservation, sustainable use and equitable distribution of the benefits received from the use of water resources and also prevents disputes.

Hence, in the context of water resources among environmental resources:

- In relation to the water resources conservation, pollution prevention and control, sustainable use and equitable distribution of the benefits received from the use of water resources, the federal government shall enact laws and the provinces shall enforce them;
- The federal government shall have the regulatory right in respect of generation, transmission, and sale and distribution of hydro-electricity of over 50 megawatts;
- The provincial governments shall have the management right in respect of generation, transmission, and sale and distribution of hydro-electricity of below 50 megawatts and above 10 megawatts;
- The local government shall have the management right in respect of generation, transmission, and sale and distribution of hydro-electricity of below 10 megawatts and above 2 megawatts;
- The local community shall have the right in respect of generation, transmission, and sale and distribution of hydro-electricity of below 2 megawatts;

If the constitution could lay down management right, along with a uniform level and boundary demarcation, on the one hand, all three levels would have management right and, on the other, by conserving and managing water resources by remaining within those levels and boundary, the federal, provincial and local governments or the community would not be deprived of the opportunity to develop their areas. It would be better if the right to generate electricity in accordance with capacity is granted to the provincial and local governments and the community and if the production ceiling is not specified. If the suggested provision is compared with the models of environmental federalism, we would find all the four models in it. It is only in the water resources sector where level and boundary has demarcated jurisdiction for every level but where all the four levels would function.

In respect of the fees collected in lieu of the use of the water resources, it would be appropriate to insert a

2 Based on the radio interview of Shanta Basnet on topical issues in radio newspaper of Advocate L.B. Thapa on 4 May 2009 on Radio Sagarmatha.

3 The views expressed by the participants of a dialogue and discussion programme entitled Environmental Federalism organized by IUCN on 16 April 2010.
provision in the constitution ‘that the province shall use the water resources under the federal law and shall have the right to impose necessary fees in lieu of the use’. In the use of water resources, the incorporation of the provision in the constitution ‘the federal government shall accord priority to the interest of the province where the water resource has its origin’ would guide the federal government as well as paving the way for resolution of any disputes in the future. It seems appropriate to insert in the constitution the provision ‘the federal government shall have the right to enact laws in respect of the inter-province watershed areas or water bodies lying between two or more than two provinces, as well as resolving potential disputes’. If the provision ‘the community shall have the obligatory right, along with duty, to production, sale and distribution of community traditional stone spouts, rivulets and streams, community ponds, local renewable resource management and farmer-managed irrigation systems (FMISs), development and management, repair, maintenance, conservation of drinking water schemes’ could be inserted in the constitution, the community knowledge of management and operation could be properly conserved and respected and also end the compulsion of the community concerned to depend on any government for the aforementioned topics.

It would be appropriate to make provision in the constitution for granting the entire right of enactment and management of the laws concerned with district-level drinking water to the local government, the regulatory and management right of drinking water projects covering two or more than two districts of the same province or provincial level to provinces and the right relating to community-level drinking water to the community concerned.

Accordingly, it would be appropriate to remain the management right and management responsibility of district-level irrigation, groundwater irrigation to the local government, the management responsibility of irrigation between two or more than two districts or provincial-level irrigation and groundwater irrigation and their development, conservation to the province, and the right and responsibility on subject of irrigation in two or more than two provinces to the federal government. The rights and duties in respect of FMISs should preferably be vested in the community concerned.

The regulatory and management right and duties in respect of wetlands and glaciers should be those of the federal, provincial and local governments, as well as the community concerned. It would seem practical to endow the provincial and local governments with the right to enact laws superior to those enacted by the federal government.

It is deemed apt to grant the right to regulate the conservation of the watersheds lying between two or more than two provinces to the federal government and the right to conservation and promotion of all other watersheds to provincial and local governments.

3.4 Forests

In the past, when the country had a unitary structure, notable achievements were made in the conservation, management, development and access of different groups to forests and distribution of benefits from forest resources. It seems appropriate to make provision relating to sharing of forest resources in the constitution, by being based on the success achieved by Nepal in the past in forest management and the unique experience gained in the forest management sector. For the promotion of the benefits of forest resources, it would be appropriate to introduce a provision in the new constitution ‘the federal government shall have the right to enact structural laws for the conservation, development and promotion of biological, social, economic, cultural and spiritual benefits to be received from the forests’.

Internalizing the principle of environmental justice and elements, it would be appropriate to introduce a provision in the constitution that ‘the federal government shall have the right to enact structural laws propounding principles related to conservation and management of forests, sustainable and equitable access to forests and the equitable distribution of various types of benefits received from the forest, resources, services and goods’. In addition, it would be apt to encompass the experience gained by the local community so far about the detailed provision relating to the conservation of forest, management, sustainable use and equitable distribution of benefits based on structural laws enacted by the federal government on the basis of the stipulated principles. Granting of the right to enact laws relating to management, conservation, use and equitable distribution of benefits to the province the constitution should include the provision that the province shall have the right to enact and enforce laws that contribute to forest conservation, gender and social justice and good governance more than the laws relating to the conservation and management of forests enacted by the federal government focusing on effectiveness of forest management and conservation as well as grant additional rights to the users, all would feel the good experience of federal state. By propounding the principles of forest conservation, sustainable access, equitable distribution of benefits, by according importance to the management of community and leasehold forestry at local level based on structural laws and the experience of the local development activities in the received benefits, if the provision is inserted in the constitution on equitable distribution of benefits received from the management, conservation and use of the community-based community forest, leasehold forestry, religious forest and private forest as well as other forest management implementation plans, responsibility and rights similarly, equitable distribution of benefits received from the management, conservation and use of current community-based forest resources that do not have any direct or indirect responsibility and right of any government like soil conservation, watershed,
afforestation, NTFP as well as other forest management implementation plans, responsibility and rights, both responsibility and right shall vest in the community, by this environmental federal system would be able to make additional contributions to the conservation of forest done by the community so far and to community development.

3.5 Protected Area

The fact is local communities have received less benefits from Nepal’s contributions to the conservation sector in comparison to people with political and economic access. Hence, it would be appropriate to introduce appropriate provision in the constitution in order to ensure equitable sharing of benefits from the protected areas to the local communities, by giving highest consideration and priority to the livelihood and cultural rights aspects.

In the new constitution, it would be appropriate to insert a provision ‘the federal government shall have the right to declare national parks, protected area, hunting reserves, wildlife reserve area’. The incorporation of provisions that ‘the conservation management of protected areas shall be both the right and duty of all governments—federal, provincial and local’ and ‘the right and duty in respect of conservation and development of protected areas shall be those of the provincial government’; and in addition, ‘special consideration and priority shall be given by the federal government to the livelihoods and cultural rights of poor indigenous nationalities who have lost their identity such as Rautes, women, Dalits and excluded communities’ would provide necessary guidelines to the federal state. It would assure the communities living near the protected areas that the New Constitution has taken interest in protecting their livelihoods and cultural rights. Similarly, the insertion of provision in the constitution ‘the federal government would have the right to enact laws relating to the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) and ILO Convention 169 would raise the possibility of the fulfillment of the Government’s obligation under the conventions concerned. The local agencies of the current protected areas have also contributed to management. In the near future, these agencies will fall under the different provinces and their experience would be useful to the provinces in the management of protected areas. Hence, it would be both extremely periodical and practical to insert a provision in the constitution ‘the management responsibility of the protected areas, community-conserved protected areas and buffer zones shall be that of the provincial or local governments’.

For equitable sharing of the benefits of national parks, protected areas, hunting reserves, wildlife reserves, the introduction of the provision ‘the income from the entry fees of national parks, protected areas, hunting reserves, wildlife reserves as well as income from other sources shall be equitably distributed between the federal, provincial and local governments’, the local communities would perceive the New Constitution as protected area-oriented for receiving environmental justice in lieu of protection of the resource. There should not be any reduction in the share of income of the local users of the buffer zone. In addition, it would be appropriate to insert a provision in the constitution ‘the local users of the buffer zone concerned and the local government of the buffer zone concerned shall have the right to equitable distribution in the earnings of the provincial government from the protected area’. Similarly, ‘equitable access and use in the use of biodiversity, wetlands, buffer zone and protected areas based on the knowledge, skills and practices of the community and equitable distribution in the benefits received from these areas, right to significant and inclusive participation without discrimination of communities deprived of policy-making, decision-making, monitoring and evaluation process on these subject without discrimination on grounds of the community’s economic, social, cultural, religious, political and other status, and duty, both will be complied with’, the environmental federalism would become meaningful. In addition, insertion of provision in the constitution ‘the provinces shall implement the said provision except in cases where it is mentioned that the federal government shall implement it’ would help prevent problems in implementation in future.

3.6 Mines, Minerals and Energy

Only if sustainable use of environmental and natural resources is ensured and resources are not excessively exploited, replenishment of renewable energy will become possible. Use of non-renewable resources in excess of their availability will certainly reduce the resource. Hence, it would be appropriate to make constitutional provision accordingly.

The introduction of provision with prior right in the constitution, ‘the right to enact laws in relation to regulation, use, access and management of all large mines, mineral oil and petroleum, natural gas, coal, solar energy, wind energy, biogas and other bio-energy, uranium, gold mine that are being explored or are yet to be explored, shall be vested in the federal government, and the concerned community will receive equitable benefits from the use of these goods’ federalism would be realized in the true sense. If the provision, ‘the right to enact laws in relation to regulation, use, access and management of all large mines and minerals except all inter-state large mines, minerals, mineral oil and petroleum, natural gas, uranium, gold mines shall be vested in the provincial government,’ the province concerned would be able to, among others, manage, use, conserve large mines and mineral resources other than those to be in the right of federal government. If provision could be made ‘the right to enact law regarding access to, use and management of medium-level mine and the stones, sand, pebbles other than those mine and minerals managed and regulated at federal and provincial level and it duty to comply shall be vested in the local
government or local community,’ it would ensure full right of the local community to the management, conservation and use of resources and encouragement to become accountable in the compliance of duty to conserve them. The environmental resources, goods and services are managed in accordance with the principle of local needs.

If the provision is incorporated in the New Constitution that ‘the right and responsibility to develop and promote environment-friendly energy such as ethanol, biodiesel, biogas and briquette, solar, wind, geothermal energy and there shall be right to equitable distribution in the benefits from these goods, equitable, significant and fully inclusive participation of the local community who have been deprived from policy-making, decision, monitoring and evaluation processes of above mentioned things, without discrimination on grounds of economic, social, cultural, religious, political and other grounds,’ it would strengthen local economy through reduced dependence on conventional forms of energy, optimal utilization of local resources, increase in local employment opportunities, consumption and export of generated energy, decrease in import of energy, and flight of domestic currency abroad.

3.7 Natural and Cultural Heritage

Regarding protection of ancient monuments4 and natural and cultural heritage, among others, it would be appropriate to include provision in the constitution “the right to enact laws related to protection, and management of natural and cultural heritage and transfer of this right to the future posterity shall rest with both the federal government and provinces, and the right to laws related to the protection and promotion of monuments less than one hundred years old shall rest with the federal government”. If there is provision “the federal government shall have the right to enact laws related to the protection of natural and cultural heritage listed in the World Heritage list and transfer of this right to the future posterity” and only if law under the Convention on World Heritage formed and applied, the efforts of the government to fulfill the responsibility under the convention will be recognized at both national and international levels. In addition, if provision “the right to laws related to the protection and promotion of monuments less than one hundred years old that don’t come under the definition of ancient monuments and the right and responsibility to these laws shall rest with provincial government is included in the future Constitution, a situation will be created in which the federal government can invest its time, labour, and financial and technical resources in the protection of ancient cultural heritage whereas provinces can do the same in the protection of relatively new cultural heritage. If provision “the contribution of the community concerned to the protection and promotion of heritage shall be valued” is included in the law to be done by the province, ancient and cultural heritage can effectively be preserved and managed locally. Similarly, if there is provision “it shall be the duty and right of local communities to preserve community-level natural, religious, environmental and cultural heritage” in the Constitution, the communities will feel inspired and constitutionally mandated to protect natural and cultural heritage more responsibly.

3.8 Land and Agriculture

If provision “the federal government shall enact laws related to ownership of land, determination of land ceiling, derequisition of land for national priorities work, reclamation of land and land use, agricultural subsidy and facility, agricultural crop insurance, and international trade

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4 Ancient monuments refer to those monuments that are built by human being and are one hundred or more than one hundred years old.
regulation of and access to technology and agricultural products, and the province shall implement these laws” is included in the Constitution; land, one of the natural resources, can be allocated appropriately to those who depend on agriculture as a means of livelihood. However, it doesn’t mean that it will be inappropriate if the province is granted the right to make laws related to it. But if the federal government is granted the right to make laws, problems related to unequal and inequitable distribution of land could be solved as well as consistent laws introduced in different provinces so based on the above this proposal is made.

The incorporation of provision in the constitution ‘the right to make laws related to agriculture and land and to be prepared in the future shall be enacted by the federal government and enforced by the provinces. In the context of the irreparable damage to the environment due to increasing soil erosion and fast increase in food insecurity due to decreasing national productivity, introduction of provision in the constitution ‘the right to enact laws on subjects such as development of land use system, management of land such as chaklabandi, large and provincial irrigation schemes shall vest in the province’ would contribute to the resolution of the problems described. It will play a positive role in the all-round development of the country by making the country self-reliant through correct use of the land. Similarly, the inclusion of provision in the constitution ‘the federal government shall enact laws on subjects such as genetically-modified organisms and quarantine and enforce them by provincial government’ would be quite relevant. The existing international conventions related to agriculture and land and to be prepared in the future shall be enacted by the federal government and enforced by the provinces. In the context of the irreparable damage to the environment due to increasing soil erosion and fast increase in food insecurity due to decreasing national productivity, introduction of provision in the constitution ‘the right to enact laws on subjects such as development of land use system, management of land such as chaklabandi, large and provincial irrigation schemes shall vest in the province’ would contribute to the resolution of the problems described.

3.9 Indigenous Knowledge

The indigenous knowledge, skills and practices of poor indigenous nationalities who have lost their identity such as nomadic Rautes, women, Dalits, deprived and local communities have not been identified or the documentation of the knowledge of the practitioners of environmental resources based on indigenous knowledge and skills has rarely been done by the state. Neither has the state made any effort towards their conservation and promotion. No legal mechanism has yet been devised at national level for conservation of the said knowledge in the expected way in an effective manner. Most of the persons concerned are not adequately informed about the international conventions regarding the identification, conservation and promotion of indigenous knowledge, skills and practices. As a result, it cannot be said that the efforts made for the protection and promotion of the knowledge, skills and practices introduced by such provisions have been made with happy way and participation of pre-informed communities concerned.

Only if the provision ‘the federal government shall enact laws regarding the conservation, promotion of the indigenous knowledge, skills and practices of poor indigenous nationalities who have lost their identity such as the nomadic Rautes and the excluded local communities and the equitable distribution of the benefits received from commercial or any other use of such indigenous knowledge, skills and practices’ could be inserted in the New Constitution, would the practitioners of environmental resources based on the indigenous knowledge and skills of the poor indigenous nationalities who have lost their identity such as Rautes and local communities receive their due respect. In the past limited number of politicians have derived inequitable benefits fulfilling their vested political and economic interests in there name. Out of the different international conventions concerning the indigenous knowledge of indigenous nationalities, those that have already been ratified and those that are yet to be ratified will actually be translated into action.

Furthermore, if the provision ‘the province shall have the right to make laws that do not adversely affect the laws of the federal government and are superior to it’ in the new constitution, it would offer the provinces an opportunity to the best possible laws and programmes, as well as implementing them, in order to conserve and promote the indigenous knowledge, skills and practices of indigenous nationalities who have lost their identity such as Rautes and local communities. If the provinces also have the regulation and management rights, it would pave the way for the formulation of laws and programmes suitable to the knowledge, skills and practices of the indigenous nationalities living within the province and their implementation.
3.10 Multifaceted Environmental Conventions

The country has ratified different international conventions as well as enacted appropriate laws. But these laws have not been implemented at the national level. Many petitions were filed in the Supreme Court with the passage of time. But the verdicts made by the Court have not been implemented yet. To date Nepal is a party to 22 conventions, including Convention on World Heritage, CITES, Ramsar Convention, Convention on Biodiversity, and Convention on Climate Change. Nepal has different obligations under these conventions. As mentioned above, to prevent undesirable situations in the future as well as implement conventions effectively, if provision “the federal government shall have the right to enact laws in order to implement the commitment at the national level prescribed by multifaceted and international environmental conventions, and the province shall have the obligation to effectively implement the laws enacted by the federal government” is included in the Constitution, such international conventions ratified in the past and to be ratified in the future seem to be implemented in the true sense of the word.

3.11 Remaining Rights

For maintaining environmental federalism and sharing environmental resources, services or goods in any model of environmental federalism considered appropriate by the country, it will be very relevant for inclusion of provision “the federal government shall have the right and obligation to do what has mentioned in the Constitution but not taking place accordingly” in the Constitution.

Conclusion

Therefore, the Members of Constituent Assembly themselves accept that there has been no enough discussion on federalism itself, let alone on environmental federalism. They also accept that they have heard about environmental federalism only at programmes organized by IUCN. It indicates that this subject has not been discussed, or even if discussed it was not given importance. There is a need for preparing a common minimum model through discussions and dialogues on such a relevant subject. Therefore, it is necessary that conservation communities maintain the same voice and stance on this subject. It is also imperative that environmental federalism, which lags far behind other political priorities, be seriously thinking, discussed and contemplated by making it the main proposal of political parties. The environment can be conserved appropriately only if the Members of Constituent Assembly, representatives of political parties, and experts of the Constitution Drafting Committee move the concept of environmental federalism forward. Only this can protect the interest of future generations.

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5 Preliminary draft report along with explanatory comments based on the National Interest Protection Committee Concept Paper, Constituent Assembly (2066), National Interest Protection Committee, Singh Durbar, 74