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Local Self-governance Policy in Nepal, 1990-2005**

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TABLE OF CONTENTS

Disclaimer	2
Acknowledgement	3
Table of Contents	4-5
List of Table and Figures	6
List of Acronyms	7-8
1 Introduction	9
1.1 Background	9
1.2 Statement of the Problem	10
1.3 Research Objective	11
1.4 Research Questions	12
1.5 Research Hypotheses	12
1.6 Methodology and Limitations	12
1.7 Structure of the Paper	12
2 Policy Implementation: Theoretical and Conceptual Framework	13
2.1 Introduction	13
2.2 Policy Implementation Models	13
2.3 Factors Affecting Policy Implementation	15
3 Decentralization: Concept and Interpretation	17
3.1 Introduction	17
3.2 Political Economy of Decentralization	18
3.3 Decentralization and Poverty Reduction	19
3.4 Conditions of Local Self-governance	19
3.4.1 Autonomy	20
3.4.2 Representation	20
3.4.3 Participation	20
3.4.4 Financial Resource	20
3.4.5 Transparency and Accountability	21
3.4.6 Human Resource	21
3.5 Potential Benefits and Risks from Decentralization	21
4 Evolution of Local Governance in Nepal	24
4.1 Introduction	24
4.2 Historical Background Before 1960	25
4.3 Decentralization Practice During 1960 to 1990	26
4.4 Local Government System 1990-1999	27
4.5 Local Self-Governance After 1999	27

5	Implementation of 1999 Local Self-governance Act in Nepal	29
5.1	Introduction	29
5.2	1999 Local Self-Governance Act, an Analytical Review	29
5.2.1	Vision and mission of local self-governance	29
5.2.2	Continuation of two-tier system	30
5.2.3	Roles, responsibilities and rights of each level of government	31
5.2.4	Inclusion and representation	32
5.2.5	Participatory planning process	32
5.2.6	Personnel system	33
5.2.7	The role of civil society	33
5.2.8	Accountability	34
5.2.9	Monitoring the implementation of local self-governance	34
5.2.10	Centre-local relationship	34
5.2.11	judicial authority	35
5.3	Major Initiatives towards Local Self-Governance	35
5.4	Actors Influencing the Implementation of LSGA- a Stakeholder Analysis	37
6	Analysis of Local Self-governance Policy from Policy Implementation Perspective	41
6.1	Introduction	41
6.2	Policy Characteristics and Resources for Implementation	41
6.2.1	Political stability and support (by groups, parties, classes, leaders)	42
6.2.2	Resource availability	44
6.2.3	Bureaucratic acceptance and motivation (career objectives as well as agency budget)	45
6.2.4	Technical soundness (clarity of goal, objective, strategies)	45
6.2.5	Autonomy and discretion (flexibility)	46
6.2.6	Institutional capacity	46
6.2.7	Inter-governmental cooperation and coordination	46
6.2.8	Public support	47
7	Conclusions and Recommendation	48
7.1	Conclusion	48
7.2	Recommendations	49
	REFERENCES	51
	APPENDIX	53

LIST OF TABLES AND FIGURES

Table	Title of the Table	Page
1	Decentralization an Evolutionary Trend	24
2	Number of Representatives in Local Bodies	31
3	Stakeholders Involved in the Implementation of LSGA, their Interest and Influences	38-39
4	Government Change after 1990	43-44

Figure	Title of the Figure	Page
1	Linear Model of Policy Implementation	14
2	Interactive Model of Policy Implementation	15
3	Structure of Local Self-governance Bodies	30

LIST OF ACRONYMS

ADB	Asian Development Bank
ADDCN	Association of District Development Committees of Nepal
B.S	Bikram Sambat
CBO	Community Based Organization
CDO	Chief District Officer
CPN	Communist Party of Nepal
DANIDA	Danish International Development Assistance
DDP	District Development Plan
DGD	Decentralized Governance for Development
DIMC	Decentralization Implementation Monitoring Committee
DIP	Decentralization Implementation Plan
DLGSP	Decentralized Local Governance Support Program,
GIS	Geographical Information Systems
GON	Government of Nepal
GTZ	German Society for Technical Cooperation
HRDC	Human Resources Development Centres
INGO	International Non-Governmental Organization
LDO	Local Development Officer
LG	Local Government
LGP	Local Governance Programme
LSGA	Local Self Governance Act
LSGR	Local Self Governance Regulation
LTDA	Local Development Training Academy
MIS	Management Information Systems
MuAN	Municipal Association of Nepal
NAVIN	National Associations of VDCs in Nepal
NDF	Nepal Development Forum
NORAD	Norwegian Agency for Development Cooperation
PDDP	Participatory District Development Project
PDLT	Panchayat Development Land Tax
PDLT	Panchayat Development Land Tax
PDO	Panchayat Development Officer
PDO	Panchayat Development Officer
PRGF	Poverty Reduction Growth Facility
RDP	Rural Development Program
RUPP	Rural Urban Partnership Program
SAP	Structural Adjustment Program

SDC	Swiss Development Cooperation
SLDP	Supporting Decentralized Planning Project
SNV	Netherlands Development Organizations
UNDP	United Nations Development Program
VDC	Village Development Committee
VDP	Village Development Program
WFP	World Food Programme
WUPAP	Western Upland Poverty Alleviation Project

CHAPTER ONE

INTRODUCTION

1.1 Background

Decentralization is not a new concept. Each kind of government, whether unitary or federal, is able to delegate power to lower-level governments. It is necessary because total centralization of decision-making and authority is not feasible. All states use some combination of both centralization and decentralization.

It has worldwide attention for various reasons: promoting democracy and political participation, correcting the failure of centralized planning and promoting people's participation in decision-making and development activities. Furthermore, it makes possible for effective and efficient allocation and use of local resources, and adequacy of information at local rather than the central level (Adamolekun 1999; Fukuyama 2004).

There are arguments against decentralization. They include the likelihood that local governments lack resources and comparative advantage of macroeconomic stability as central governments. Moreover, decentralization in developing countries with weak governance may weaken state and allow the elites capture delegated power and resources. Besides, it may fuel regional identities and political instability, produce plans inconsistent with national policy and transfer corruption to local level (Adamolekun 1999; Fukuyama 2004; Schuurman 1997; Turner and Hulme 1997).

Despite these weaknesses, decentralization has been extensively proposed since the worldwide wave of democratization during the early 1990s. Turner and Hulme (1997:151) explicitly illustrate the widespread application of decentralization: '... leaders from Khartoum to Kathmandu have made many declarations of their intent to promote decentralization'. They consider this as a complex concept because of its various continua: deconcentration, delegation, devolution and privatization. A mixture of them is found in a country instead of a single form. Therefore, they critically describe this concept as a 'good theory with poor practice'.

Literatures on implementation of decentralization policy indicate greater heterogeneity across different countries, regions and continents. In Africa, the decentralization practice since 1960s to date is more deconcentration within centralization (Turner and Hulme 1997, Bhardhan and Mookherjee 2006).

In Asia, implementation varied with regime types. Military and authoritarian regimes exercised greater centralization. While democratic countries exercised mixture of various continua i.e., deconcentration, delegation and devolution. The general tendency in Bangladesh, India, Nepal and Pakistan has been to delegate power within public institutions rather than to locally elected authorities.

Latin America has experienced greater centralization because decision-making authority has been remained within the central authorities. Turner and Hulme (1997:166) argue that the redemocratization of Latin American nations may create new opportunities for decentralization but there is a historical legacy of centralist attitudes. According to their observation, some South Pacific nations have experienced mixed results like disintegration as well as recentralization (Papua New Guinea). In a case study of Brazil, Bhardhan and Mookherjee (2006:38), state that decentralization enhanced access to public service (education, health),

decision-making (participatory budgeting) but basically to those areas that were relatively better off, and had an active civil society.

European experience is also mixed. Mosca (2006) argues that European countries like Spain and Italy have regional inequality that causes resource-poor regions to trade political autonomy for national resources. Therefore, even if local governments are administratively independent, they depend financially on the centre. She also noted the recent Norwegian case of recentralization of its health care system, which was recentralized in 2002 after 30 years of decentralized practice.

In Nepal, the issues of implementation resemble those of other developing countries. Nepal has geographical, cultural, social and economic reasons in its history to decentralize the governance system. Dominantly mountainous terrain, little or no transport connection with the capital, socio-cultural diversity and poor communication linkage were the major driving forces to decentralize the governance system. However, decentralization occurred not for the autonomy of the local bodies but for the extension of central power to the local level. Practiced even before the unification of the country in 1769, it has undergone various changes depending on the contemporary government regimes and their political interest in decentralization reform. During the Panchayat¹ regime (1960-1990), decentralization was mainly deconcentration. After the restoration of democracy in 1990 and until the promulgation of 1999 Local Self Governance Act (LSGA), local governance practices were similar as before under separate acts (1992) for different local bodies with some cosmetic change in 'names' of local bodies². The LSGA has provided more responsibilities as well as authority to local bodies than any previous legislation.

It is worth noting here that the act came into effect amid of Maoist insurgency launched by the Maoist from 1995 which had a wider local impact. This also is one of the influential factors to constrain the implementation of various public policies including LSGA. Therefore, analysis of implementation of LSGA considers this situation.

1.2 Statement of the Problem

Nepal has made numerous efforts to deliver services to the local people through the nearest unit of government. After the autocratic Rana regime (1846-1951), Nepal embarked on democracy through a popular revolution (Hays, 1975 in Agrawal 1988: 190). The democratic polity ended in December 1960 when the late king Mahendra took direct control over the government and introduced partyless Panchayat polity outlawing party polity. In 1962, he promulgated a constitution which envisioned decentralization policy as an instrument of central control by establishing of 75 separate District Panchayats and more than 4000 Village/City Panchayats. After 30 years of the Panchayat polity, a popular movement restored multiparty democracy in 1990. The 1990 Constitution of the Kingdom of Nepal

¹ The word 'Panchyat' traditionally referred to an informal institution comprising at least five respected village elders who acted as a local judicial unit to resolve minor disputes and mobilized communities for common causes.

² Village Panchayat changed into VDC, Municipal Panchayat into Municipality and District Panchayat into DDC.

emphasized decentralization as a state policy to maintain conditions suitable for democracy through wider participation of people in the governance³. But it did not specify the structures of the role of local governments.

Decentralization received priority in the Eighth (1992-1997), Ninth (1997-2002) and Tenth (2002-2007) plans. Government promulgated separate local governance acts for local levels in 1992 under which local level elections were held in the same year and again in 1997. In 1995, the government appointed a High Level Decentralization Co-ordination Committee to make policy recommendations on decentralized governance. Based on the recommendations of the committee, the Government promulgated the 1999 Local Self Governance Act (LSGA) and the 1999 Local Self Governance Rule. The Act provided the foundation for a local self-governance system in Nepal.

To translate the spirit of the Act into practice, succeeding governments made efforts of varying magnitude. It statutorily recognized the role of local self-governance and devolution of power by making local governments more responsive and accountable to people (Byanju 2003: 11). LSGA seeks the comprehensive transfer of the centre's decision-making power and implementing authority to the local bodies. However, this goal has not yet been achieved. It is criticized because some clauses of LSGA that offer autonomy to the local bodies contradict others that limit its implementation.

Some institutions advocate accelerated implementation of local self-governance policy. These include the Association of District Development Committees of Nepal (ADDN), the Municipal Association of Nepal (MuAN), and the National Associations of VDCs in Nepal (NAVIN). These institutions are the members in the. They are able to play a constructive role in favour of local self-governance as the member of High-level Decentralization Implementation and Monitoring Committee (DIMC). In addition, several donor agencies are supporting decentralization initiatives.

Despite the entire endeavours made, **questions still arise why a policy faces difficulties in implementation even if it acquired policy space in periodic plans and programs, remained as popular political agenda of political parties, received continued donor support, legal arrangement and bureaucratic preparedness and practiced for over 40 years.** This is the fundamental question that encouraged me to proceed for the research.

1.3 Research Objective

- To analyze the gap between policy and practice (the implementation of decentralization policy in general and LSGA 1999 in particular).

³ Article 25(4) of the Constitution of the Kingdom of Nepal, 1990

1.4 Research Questions

1. What is the state of implementation of Local Self Governance Policy in Nepal? (assessing implementation made so far)
2. Who influences policy decisions and implementation and how do they do so? (analyzing movers and blockers through stakeholder analysis)
3. How far have existing policies and institutional frameworks been sufficient to expedite decentralization process? (to assess the initiatives made so far to implement policy and analyze the impediments in implementation)

1.5 Research Hypotheses

- > The greater the consistency in government laws, the greater the degree of local self-governance
- > Fiscal, administrative and political decentralization contribute to local self-governance.

1.6 Methodology and Limitations

The study is based on qualitative analysis of available secondary data. It mainly analyzes the implementation of local self-governance policy since 1999 in general and 1999 Local Self Governance Act in particular. The analytical framework used to analyze the implementation of LSGA is the linear and interactive model of policy implementation developed by Thomas and Grindle. The main sources of information for the paper are books, reports, workshop/conference papers, country papers, research papers, PhD theses, ISS working papers, periodicals, case- studies, laws, regulations, policies, guidelines, plan documents, budget speeches. Further, the World Bank reports, UN reports, websites of related organizations like National Planning Commission, Ministry of Finance, Ministry of Local Development, District Development Committees, ADDCN, MUAN, NAVIN and my own personal experiences are major sources of information.

1.7 Structure of the Paper

The paper is divided in seven chapters. The first chapter starts with a general introduction to the subject matter, traces out the problem area, research objectives, research questions and defines the methodology and limitations of the paper. The second chapter presents a theoretical framework for analysis. The third chapter describes some contemporary concepts of decentralization and local governance. The fourth chapter sheds light on the evolution of decentralization in Nepal which also explains in brief the transition of Nepal from deconcentration to devolution. The paper in chapter five, examines the implementation of 1999 Local Self-governance Act and its regulations. The sixth chapter then attempts to analyze local self-governance from the light of interactive model of policy implementation presented by Thomas and Grindle. In this chapter the implementation of LSGA is critically examined on the ground of characteristics and the resources needed to implement a policy effectively as prescribed by the model. Finally, the paper concludes in chapter seven with conclusions and recommendation.

CHAPTER TWO

POLICY IMPLEMENTATION: THEORETICAL AND CONCEPTUAL FRAMEWORK

2.1 Introduction

Policy implementation is an indistinguishable and crucial stages of policy-making process (Pressman and Wildavsky 1973; Thomas and Grindle 1990). In its simplest form, it is defined as putting policy into effect or translating stated goals into reality. However, there are arguments that implementation is not simply putting policy into effect but it covers many more issues. It is influenced by the activities at every phases of policy process i.e. agenda setting, decision-making and implementation. At every phase the policy process passes through conflicts of interest, conflict over resources and pressure from external forces. Lane (2000:99) argues that policy implementation is a complex phenomenon involving coalitions, control, intention, perception, output and outcome. Success of a policy is based on the degree of congruence of the policy objective with the outcomes achieved although perfect matching in actual practice is hardly possible. In this chapter I present some definitions of policy implementation. Then I explain about some implementation models and finally select one to analyze the implementation of the 1999 Local Self Governance Act.

2.2 Policy Implementation Models

Implementation models help link the missing connections between policy decisions and their implementation (Lane 2000:97). Different scholars have presented implementation models differently. For example, Mazmanian and Sabatier (1983) presented three implementation models: top-down (administrative) bottom-up (flexible and participatory) and coalition of the two. Thomas and Grindle (1990) presented 'Linear' and 'Interactive' models for analyzing policy reform in developing countries. Other models mentioned above also in one way or other indicate similar characteristics as the models developed by Thomas and Grindle. I found the linear and interactive model more suitable to critically analyze the implementation of the 1999 Local Self Governance Act.

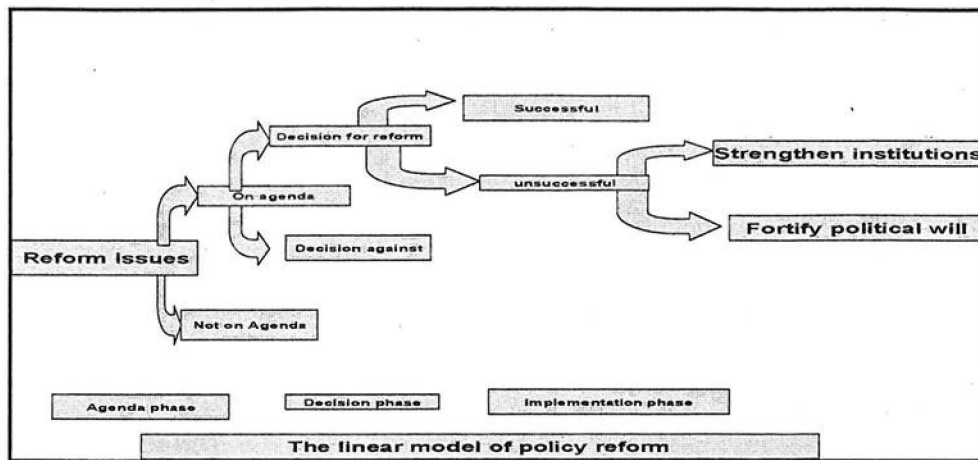
In the **linear model**, a decision is taken as the critical choice of the policy-maker and implementation is considered as the responsibility of another party: bureaucratic managers. Thomas and Grindle consider success of policy implementation depends on strength of implementing agency. They consider the failure could be mainly due to lack of capacity or political will. Not only governments of the developing countries but also donor agencies like the World Bank applied this model during early 1980s to aid recipient countries with the purpose of institutional strengthening. Therefore, in this model institutional capacity and political-will play vital role for success of a policy.

Nepalese situation resembles mostly the linear model because the government tends to make policy decisions, and then leave them for the bureaucracy to implement in a routine manner. Policy-making is considered a sufficient condition for implementation. However, there are initiatives made by the government to make policy process more participative in recent years, considering the role of

NGOs, interests groups, civil society, and marginalized groups. However, despite these initiatives, elite capture is still an issue.

Bjorkman (1994) thinks that policy ambiguity and conflicting policy goals are common phenomena of developing countries. Therefore, they often suffer policy failures at the implementation stage. He claims that, in absence of implementation, policy goals and objectives have no meaning except a psychological effect.

FIGURE 1
Linear Model of policy implementation

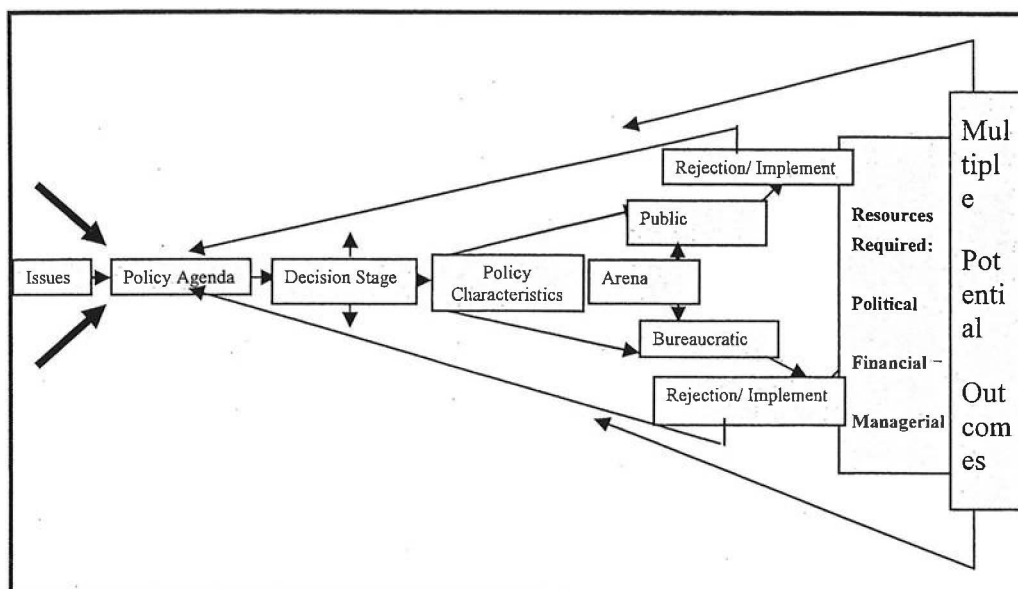


Source: Thomas and Grindle (1990), 'After the Decision: Implementing Policy Reform in Developing Countries', *World Development*, 18(8), 1165

Another model presented by Thomas and Grindle is an **interactive model**. They put forward a political economy approach for understanding policy reform. In this model, the process of implementing policy reform is seen as interactive rather than linear since reaction to policy change may come at any point in the process of decision and implementation (Thomas and Grindle 1990). They present policy as an interactive and dynamic course of action. It may alter or reverse at any stage in its life-cycle by the pressures and reactions of those who oppose it. Unlike the linear model, the interactive model views policy reform as a process in which interested parties can exert pressure more effectively to influence high-level officials in government; others might affect the managers or those who control the resources needed for implementation. Therefore, the stake, nature, intensity and location of reactions produced by those who are affected from the policy changes determine the success or failure of implementation.

Stakeholder analysis is a useful tool to examine the interest as well as the influence of stakeholders in policy implementation since an interactive model is open to influence to or from the environment. I use this analytical tool to explain the stakes and influence of various stakeholders during the implementation of local self-governing policy in Nepal in analysis part.

FIGURE 2
Interactive model of policy implementation



Source: Thomas and Grindle (1990), 'After the Decision: Implementing Policy Reform in Developing Countries', *World Development*, 18(8), 1167

2.3 Factors Affecting Policy Implementation

Different scholars have different opinions about the factors affecting policy implementation. Mazmanian and Sabatier (1983) presented six conditions: clear and consistent policy, sufficient jurisdiction to implement, sufficient managerial and political skill and commitment to specified goals, supported by key stakeholders, consistent priority over time. Lane (2000) focused on four aspects for implementation: strategies, mechanism, variety of motives among the actors and the need for the coalition building. Thomas and Grindle (1990) say that policy characteristics determine the implementation process. The significant characteristics of policy that determine the kinds of conflict (minor or major) during implementation are:

- cost and benefit of a policy and their distribution to the ruling elite and the societal groups
- Level of technical competency and administrative strength
- Duration- short-term and long-term impact: immediate full impact likely to generate stronger reaction from those affected
- Need for participation from 'beneficiaries', or 'target groups': the more public involvement required, the greater public reaction is likely to be
- Self-implementation versus high dependency on people during implementation

These characteristics of policy reform have different responses in public and administrative arena. Thomas and Grindle (1990) note that the reactions in the public arena have a higher stake to the government as it needs considerable efforts and resources to sustain the reform. While the stake is not as high in the

bureaucratic arena it also needs substantial resources to sustain the reform. Therefore, there is a tendency in developing countries like Nepal to give less preference to the policies with higher reaction and opt for administrative implementation.

They further observe that various kinds of resources are needed for a policy to implement:

- Political commitment and willingness
- Sufficient financial resources
- Managerial and administrative responses towards the policy change (acceptance/ rejection)
- Technical soundness
- Political support
- Considerable regime stability and legitimacy

In a similar manner Bjorkman (1994) argues that policy implementation is influenced, shaped and constrained by different factors:

- Technical soundness (clarity of goal, objectives, strategies)
- Bureaucratic motivation (career objectives as well as agency budgets)
- Political stability and support (by groups, parties, classes, leaders)
- Resources
- Discretion (flexibility)
- Institutional capacity
- Intergovernmental cooperation and coordination
- Public support
- International leverage (especially aid, loan, and market access)

There are various definitions of policy implementation ranging from simply putting policy into effect to a complex phenomenon including a various conflicting interests. Similarly, different models have been developed to explain policy implementation: top-down, bottom up and mixture of both as well as linear and interactive. For effective and sustained implementation, scholars have put forward various conditions, aspects, resources and factors. They differ in connotation but have similar implications. For the analysis of local self-governance, I use the policy characteristics presented by Thomas and Grindle and the factors presented by Bjorkman in areas that are not as clearly spelt out.

CHAPTER THREE

DECENTRALIZATION: CONCEPT AND INTERPRETATION

3.1 Introduction

Decentralization has become a universal governance system whatever the size or kind of regime (Crook and Sverrisson 2003: 233). It is implemented in every state with a wide range of economic, political and historical objectives. Economically, decentralization serves to enhance an economy's efficiency and minimizes the waste of resources (Mosca 2006; Smith 1985). On the political front, it is believed to strengthen accountability, political skills and national integration through an incentives to politicians and local officials to be responsive about local self-governance (Mosca 2006: 115). Historically, some countries like Switzerland delegate power and responsibilities to the lowest tier of government based on the principles of federalism and subsidiary (ibid.).

Different scholars have different opinions about the importance of decentralization. Some explained it as a tool to make local institutions more accountable on the principle of subsidiary⁴ (Dahal et al. 2001; Work 2003) and others as a popular remedy for the problem of centralization (Turner and Hulme 1997:151). Similarly, Fukuyama (2004) claims that decentralization reduces the transaction cost of delivering service to the local people since central provision of services incur more resource than the local service units do.

Main objective of decentralization is to locate government institutions close to the people. In their opinion, it is a term with many positive connotations: proximity, relevance, autonomy, participation, accountability and democracy. Therefore, decentralization is believed to reduce the transaction volume (Fukuyama 2004).

Besides those factors, there are two categories of factors responsible to decentralize (Dahal et al. 2001) governance in various countries. The *first category* includes international factors like aid conditionalities, the end of the cold war, the worldwide wave of democratization and the concepts of good governance. Fukuyama (2004) calls this a 'big push' within the development policy-community since the 1980s. The *second category* includes national or local factors like open and democratic polity and public participation. Other internal factors include geographic, economic, social and cultural diversity that impede government operations for local people.

Until the early 1980s the concept concepts of decentralization covered mostly the transfer of authority, responsibility, and resources from centre to lower levels of administration through deconcentration or delegation⁵. By the early 1980s, the

⁴ In the principle of subsidiary, decisions are made by levels of government no higher than those necessary to perform a given function.

⁵ *Deconcentration*: redistribution of workload and decision-making from the centre to its local field units. It is simply an administrative or bureaucratic decentralization (Cheema and Rondinelli 2007, Mosca 2006). *Delegation*: allocation of power by the central authority either to newly created organizations or to already existing semi-autonomous organizations. (ibid.)

concept of governance expanded and more actors like civil society and the private sector came into the scene. During the mid-1980s decentralization incorporated devolution and privatization⁶ (Rondinelli and Nellis 1986 in Turner and Hulme 1997). By 1990s, deregulation and divestiture were the major instruments for decentralization (Schuurman 1997: 153). However, some scholars are not ready to take privatization as decentralization rather they argue it as giving some space to the private sector.

Different actors use the term 'decentralization' differently in their analysis and understanding of the policies relating to it. Therefore, decentralization is criticized as an ambiguous concept with different meanings to different people. However, for conceptual clarity Turner and Hulme's (1997) focus on territorial and functional aspects of transfer of authority can be helpful. They urge that decentralization is a process of placing authority at a lower level territorial hierarchy to facilitate services from geographically closer service units. Functionally, it is about transferring authority to an agency that is functionally specialized.

The World Bank (2000:108) defines decentralization as the devolution of political, fiscal and administrative power from central government to sub-national units of government. UNDP (2004) defines it as restructuring of authority so that there is a system of co-responsibility between institutions of governance at central, regional and local levels based on the principle of subsidiary.

It is difficult to relate Nepalese situation to a particular definition mentioned above since it has been exercising all three types of decentralization in various continua. However, the World Bank definition is more influential as it is one of the principal aid agencies and has certain influence in policy arena.

3.2 Political Economy of Decentralization

As mentioned earlier, decentralization has undergone conceptual shifts since 1980s. The meaning of decentralization differs in different contexts. It is perceived as deconcentration in unitary states and as devolution in federal states. The design as well as the impacts of decentralization varies from country to country depending on motives and capacities. In one region, decentralization might have positive impacts on local as well as national governance because its design is coupled with responsive and accountable local leadership. In another region, it might simply extend central authority and articulate elite preference in policy matters. Therefore, Bardhan and Mukherjee (2006) assert that measuring the impact of decentralization is not easy.

From a political economy perspective, a vital question rises about the motivation of national governments to decentralize their power to sub-national, regional and local bodies. It is a matter of research whether it is voluntarily relinquished or guided by the central government. Bardhan and Mukherjee (2006) present major reasons for national governments, parties, politicians or dictators to

⁶ *Devolution*: the highest degree of decentralization with political, administrative and financial autonomy. Central government relinquishes administrative, political and financial responsibilities to the local bodies (Mosca 2006: 114). *Privatization*: a type of decentralization under liberalization policy both in developed and developing countries, especially after 1990 (Mosca 2006: 114).

embark on decentralization. The first is political pressure to play a proactive role to retain public support and to improve service delivery. The second is to protect national interest from external influences mainly posed by multilateral aid agencies as conditionalities and democratic wave after the end of cold war. Neo-liberal ideology counts as another strong cause for decentralization (Schuurman 1997: 153).

Indeed decentralization may be a reliable means of prolonging and extending elitism to the lowest level of governance. Smith notes this risk of decentralization and recommends to evaluate its purpose. However, power in developing countries (especially at local level) has economic implications because the higher the economic resources, the higher the power.

3.3 Decentralization and Poverty Reduction

Does decentralization serve for poverty reduction? It is a question posed before the scholars who favour decentralization. Scholars like Crook and Sverrisson (2003) believe that decentralization can extend services to meet the needs of the poor. Bardhan and Mookherjee (2006) are optimistic about its potential to target resources in favour of the poor and the disadvantaged. But Schuurman (1997) suggests for a careful attention to the issues like: who gets the benefit? the local elite or really those who are underprivileged marginalized and excluded poor? Further, it should be taken into account whether the concept is used as a handy device to protect autocratic regime.

Preference of donor agencies in developing countries during the 1980s was structural changes mainly through deconcentration. The 1990s became the decade of good governance by prescribing transparency, accountability, participation and predictability with wider participation of local bodies and non-governmental agencies. Service delivery through the lowest unit of government and civil organizations was a focus. Similarly, the good governance agenda became a leading issue of the World Bank Report 1997 with the theme 'The State in a Changing World'. It prescribed two strategies for state effectiveness. The first was about matching the state's role to its capacity and the second is about raising state capability by reinvigorating public institutions. The second was the strategy to increase state efficiency by making the state more responsive to local people. For this to happen, the World Bank in 1999 put forward a new development framework: Poverty Reduction Growth Facility (PRGF) which asks for wide spread participation, comprehensive analysis of poverty and development program directly benefiting the poor.

3.4 Conditions of Local Self-governance

The UNDP defines local governance as a set of institutions, mechanisms and processes, through which citizens and their groups can articulate their interests and needs, mediate their differences and exercise their rights and obligations at the local level. The major elements of local governance are citizen participation, partnerships among key actors at local level, capacity of local actors at all sectors, information network, accountability mechanisms and pro-poor orientations (UNDP 2004). Performance of local governments varies with the authorities (political, financial, and administrative) given to it.

Adamolekun (1999) argues that autonomy to generate revenue or constitutional provision for financial transfers is essential to enable local

governments to attract qualified staff and to deliver services satisfactorily. Here are some conditions of local self-governance which will be examined while analyzing the implementation of 1999 Local Self Governance Act in chapter Five.

3.4.1 *Autonomy*

Autonomy is a key element of self-governance. This consists of administrative, political and financial autonomy to the local bodies to realize the local self-governance in real sense. Bardhan and Mookherjee (2006) confer that service delivery at local level is more effective and efficient if there is no central control or capture by local elites. Dahal et al. (2001) indicates that the principles of autonomy involve three basic things. The first is distinct identity; the second and third are ability to enter into contracts and to use and dispose of its property respectively.

3.4.2 *Representation*

It is believed that decentralization can enhance representation for diverse people of different geographical, social, cultural and economic context. However, it is conditioned by a legal provision made for local bodies guaranteeing the inclusion of those people lagging behind the development mainstream. The notion of the representation is to provide benefits to deprived, unorganized and powerless, poor and marginalized and to bring them to the level where they have a space, role and power to influence policy decisions. With heterogeneous society like Nepal needs such mechanisms to facilitate representation of deprived, marginalized, and excluded people. The representation mechanism also helps enhance harmony in the society.

3.4.3 *Participation*

Participation is a basic feature of decentralization. Without participation by stakeholders, decentralization remains a mere slogan. Dahal et al. (2001) quoting Patterson (1999), argue that participation signifies greater access, influence and control of the political system. The rationale behind it constitute that local people have better indigenous knowledge and expertise about the resources, demands to fulfill and means to achieve them than the central government. Participation is achieved through creating space for popular power and making people aware about democratic rights, involving them in the entire planning process and enhancing access to the resources like information, skills, technology, income and assets. This needs a legal framework supported by political commitment and proper incentive mechanism.

3.4.4 *Financial Resource*

Resource constraints limit the autonomy and capability of local governments. Higher dependency on the central government for resources lowers the autonomy of local bodies. Local bodies ideally are viable units for revenue mobilization since there is direct incentive for them for efficient use and vice versa. In rural area local bodies generally lack financial resources because of low level of productive resources available. This is also due to higher costs for development works in the remote areas than in the accessible one. Therefore, local governments are advised to promote the productive use of land, capital and labour to upgrade themselves from financially fragile situation and sustain local governments (King and Pierre 1990: 3). In addition to the local resource, the central government should allocate grants based on the development need, population, size, remoteness and cost and internal resource strength etc depending on the local situation.

3.4.5 Transparency and Accountability

Accountability is a mechanism with some coercive provisions to limit abuse of devolved power to the local bodies. It comes along with the power and authority. There are always questions: how have the elected or appointed officials been exercising the power? Are their activities transparent? Local self-governance rests on the principle that the authorities report how the power had been used (Dahal et al. 2001:74).

Decentralized governance indicates downward accountability, broadens the scope of people's participation and enhances the responsiveness. The issue here is to whom the local level employee and elected officials are accountable. Mostly, the employees at local bodies are appointed by the centre and accountable to their bureaucratic head rather to the elected officials. The elected officials also are not accountable to their constituents for their work done.

3.4.6 Human Resource

Local self-governance depends on the capacity of local bodies to hire, retain and fire the employees (Dahal et al. 2001:78). Local bodies need human resources accountable to whom they are supposed to serve. If local bodies have to rely on the government for their employees, the notion of self-governance no longer exists.

3.5 Potential Benefits and Risks from Decentralization

Decentralization has carried positive as well as negative implications in the development process in the past. Referring to J. S. Mill and C.H. Wilson; Smith (1985) put forward their views that decentralization makes available a platform for people to participate in various meetings, the periodic elections that make the local people aware of their roles, rights and value. It teaches people about the role of political debate, the nature of policies, plans and budgets and makes them innovative and hopeful about the future. However, he argues that the issue of who learns and in what magnitude is vital.

Explaining positive aspects of decentralization, Smith further says that local government provides a foundation for potential leaders to set their political career path and promote people's participation at both local and national levels. It is claimed that democratic decentralization has potential to contribute to social harmony, community spirit and political stability. In addition, in a democratic system, people are able to elect leaders whom they trust (Smith 1985: 21). However, experiences show weak correlation between trust at local level and stability in national political system (Cheema and Rondinelli 2007; Smith 1985; Turner and Hulme 1997).

Political participation was a major feature of the early 1990s which calls for the devolution of power by the central government to self-governing communities at the local level (Cheema and Rondinelli 2007: 3). Several scholars noted that, if inclusion mechanisms are applied, local democracy has a potential to provide political equality and offer extra opportunities for citizens to participate in decision-making. In principle, wider participation in the local level helps reduce the likelihood of the concentration of power and provides greater political equality. This in turn helps decentralization to meet the needs of the poor and disadvantaged. However, in reality the assumptions of decentralization are rarely met. Rather there is a likelihood of manipulation by the dominant elite group at the centre and local through state policies and institutions (Adamolekun 1999; Smith 1985).

Local governments are closer to the people and therefore can be more accountable for their work than the national government. The political activities that operate at local levels such as elections, participation in policymaking, publicity, political pressure, and public debate close the gap between citizen and the public officials and make the latter accountable for their work. In addition, the local people have incentives to contribute more in local development programs, especially when identified and implemented at local level than in the central level. This depends on the availability of planning infrastructures like information, expertise and knowledge and resources at local level to utilize them in favour of local development.

Local officials and representatives are in a better position to know the needs, aspirations and grievances of local people so that they can be met and addressed in an efficient and effective way. Adamolekun (1999) points out that there are possibilities of competition and choice among the local bodies in their goods and services they provide to the people. He thinks that decentralization enables the people to acquire high quality goods and services in a competitive market and reduces the chances of incurring huge cost of central policy failure limiting it at a small local level.

However, there are various risks of decentralization. Adamolekun (1999) not only presents positive side but also expresses his doubt about efficient service delivery at local level. He asserts that the central provision might reduce the costs of the same through economies of scale because of its qualified staff, better institutions. Further, he suggests that decentralization is not a good option for weak states since it might further weaken the state to deal with the disintegrating factors.

Smith (1985:5) criticized decentralization as a parochial and separatist concept. He argues that it provides power and resources to local elites instead of guaranteeing political equality. He claims that only in ideal situations does democratic decentralization allow people's participation and control over local development programs through autonomy devolved to the local institutions. In practice, however, decentralization has become a tool to maintain control and achieve narrow objectives (Turner and Hulme 1997: 159). Smith (1985:185) notes that ideologically it is an indispensable concept but, falling short of achieving its expectations. He asserts that the development burden attached to it is too great to bear by the developing countries.

Decentralization is practiced as a development policy at various levels with varied magnitude from deconcentration to devolution. However, some important issues are still to be addressed. These issues include: does decentralization imply that all authorities be delegated to the local level or should the centre retain some functions? Who exercises decision-making power at local level? Are the local bodies with higher degrees of participation able to make decisions or does decision-making power remain elsewhere? On the former issue, Turner and Hulme (1997) think that state should retain core functions over essential national matters. It should have authority to redesign the system of government and to discipline or suspend the decentralized units if they are not performing effectively.

Analyzing the benefits and risks of decentralization, a conclusion can be drawn that it has mixed consequences. The role of the state cannot be ignored as facilitator and enabler. The role of local bodies is also vital for provisioning goods and services to the local people from the closest service unit. The balance of two is an optimum situation that can benefit the country. The World Bank is also cautious about the potential risks of decentralization and suggests being careful in

minimizing the dangers of rising inequality, macroeconomic instability and risk of local capture.

CHAPTER FOUR

EVOLUTION OF LOCAL GOVERNANCE IN NEPAL

4.1 Introduction

Nepal has been exercising decentralization in various forms at various periods of its history. In the ancient era, particularly during the Lichchhavi dynasty, a 'Panchali System' was in operation in which five village elders used to set the rules for self-governance in society. Subsequently, there were local voluntary social and economic spaces for the social and cultural autonomy of people during the Kirant, Malla and early Shaha periods. These indicate that Nepal had a set of formal and informal political structures to govern society in an ordered manner (Dahal et al. 2001: 39).

After the unification of the country in 1769, even if the locus of power was the palace, rules were devolved to local elites to work on its behalf. This can be seen as loosening the power of the state in favour of ruling elites. Similarly, during the Rana oligarchy (1846-1949) there had been some practices of city and village level elections. Regions (four) and districts (thirty three) were created for administrative purposes. Rana regime ended in 1951 with people's revolution. The interim constitution contained a brief provision of local government. The first five-year plan (1956-1961) emphasized the decentralization of power for the proper implementation of plans. King Mahendra abolished the parliamentary system in 1960 and introduced a monocratic Panchayat polity which lasted till 1990. During Panchayat regime (1960-1990) several initiatives were made toward decentralizing resources and authority to local level. Another people's movement ended the Panchayat system and established a multiparty democratic system in 1990. In 1992 government promulgated three separate acts for the local bodies. It was followed by a consolidated local self-governance act in 1999 as 1999 Local Self-governance Act and 1999 Local Self Governance Regulation which conferred more power to the local bodies than ever before.

This chapter presents an evolutionary process of decentralization in different time periods.

TABLE 1
Decentralization an evolutionary trend

Year	Initiative	Remarks	Forms of Decentralization
1962	Constitution of Nepal	Emphasis on decentralization of Panchayats; post of Chief District Officer (CDO) created	Deconcentration and delegation founded on highly centralized
1965	Local Administration Act	Decentralization plan in three phases, Panchayat Development Land Tax (PDLT) Pilot scheme	Panchayati governance system (1960-1990)

1972	Local Development Department	Post of Panchayat Development Officer (PDO) Created	
1974	District Administration Plan	Provision for District Development Plan	
1978	Integrated Panchayat Development Design	Idea of "Service Centre" as focal point for local planning.	
1979	PDLT withdrawn		
1980	Ministry of Local Development (MLD) Established	Conversion of PDO to LDO (Local Development Officer)	
1981	Merger of Panchayat and Local Development Ministries (MPLD)	Integrated Rural Development Central Co-ordination Board	
1982	Decentralization Act	Districts authorized to prepare periodic plans	
1984	Decentralization Rules	District, Village, Town Panchayats to prepare annual/periodic plans	
1989		Supporting Decentralised Planning Project (SLDP)	
1992	DDC, VDC and Municipality Act and regulations	Increased responsibilities of local development	Deconcentration and delegation with more powers to the local bodies than before (1992-1999)
1992	Decentralisation Support Project (DSP)	Donor supported	
1995	Participatory District Development Project (PDDP)	Donor supported	
1996	Decentralization Co-ordination Committee	To coordinate decentralized activities	
1996	Local Governance Programme (LGP)	Donor supported	
1999	Local Self-governance Act	More political, administrative and financial authorities to the local bodies	Devolution (but still some practices of de-concentration as well as Delegation)
1999	Local Self-governance Regulations	To execute the act	

Source: Gurung H. Fragile District, Futile Decentralization 2002, p. 22 cited by Brownell and Rai (2002), in Country Profile: Nepal/Urban Sector and Municipal Governance, Federation of Canadian Municipalities- International Centre for Municipal Development, 2002,p. 40.

4.2 Historical Background Before 1960

During the Rana oligarchy (1846-1949), there were local bodies like Gram (village), Nagar (municipality), district and region. Some elections were also held in Nagar Panchayat and Gram Panchayat level but in a party-less manner. The country was divided into four regions under respective commanding generals and

33 districts under Bada Hakim (district head) directly accountable to the Rana prime minister. However, all local levels were mere extensions of central government units for administrative purposes: mainly for tax collection and maintaining law and order.

The entire governance system was being ruled by orders of Rana Prime Minister. Constitutionalism was absent. Even the power of the king was neutralized and all the posts and political power was monopolized (Dahal et al. 2001: 39). Participation of most people was confined to social practices and political participation was a prerogative of the ruling families and the so-called upper caste elites. However, some legal processes were initiated in governance system. The Ranas codified a written legal code *Muluki Ain 1854 (amended in 1910)* which provided considerable autonomy to grassroots village units in the management of local problems (ibid.). They promulgated the Government of Nepal Act 1947 (a constitution) for the first time but the provisions were never implemented.

An anti-Rana movement launched by political parties and morally supported by the then King Tribhuban, overthrew the regime in 1951 and introduced a multiparty democratic system in the country. The Interim Constitution of the Kingdom of Nepal 1951 paved the way for democratic governance. In 1952 the government established the 'Village Development Board' at the centre and Village Development and Cooperatives, District Development Boards and Block Advisory Councils throughout the country (ibid.:40). Further, the Constitution of the Kingdom of Nepal 1959 made the government collectively responsible to the people as well as promised for vertical decentralization of power. High political instability because of power struggles among the political leaders and different interest groups and between the King and the Prime Minister, prompted King Mahendra to conduct coup d'état (Dahal et al. 2001: 40). He abolished the parliamentary system and outlawed political parties in 1960 and introduced Panchayat polity (Bienen et al. 1990; Dahal et al. 2001).

4.3 Decentralization Practice During 1960 to 1990

King Mahendra promulgated the Constitution of Nepal 1962 to further his partyless Panchayat system. Several initiatives were made towards decentralization. Some of the major initiatives were the 1965 Decentralization Plan; the 1974 District Administration Plan and the 1978, Integrated Panchayat Development Plan. These plans recommended the respective governments to decentralize authority in all areas except defence and foreign affairs. The 1966 Local Administration Act (amended in 1971) granted authority and power to the Chief District Officers of 75 districts. Similarly, the 1982 Decentralization Act, and the 1984 Decentralization Working Procedure Rules (Dahal et al. 2001) were promulgated with objectives to increase local participation in planning and implementing development strategies, to mobilize local resources for development and to increase accountability of officials to citizens.

Besides, several administrative reform commissions constituted to recommend administrative reforms in various periods have recommended in favour of decentralization. Some of them are:

- 1975 (B.S. 2032) Administrative Reform Commission
- 1963 (B.S.2020) Bishwa Bandhu Thapa Commission
- 1967 (B.S.2024) Bhoj Raj Ghimire Commission
- 1977 (B.S.2034) Jaya Prakash Commission

- 1982 (B.S.2039) Ranadhir Subba Commission and
- 1991 (B.S.2048), Administration Reform Commission (Bienen et al. 1990; Local Authority Fiscal Commission 2000).

The process of decentralization during this period was in the form of extended arms of the central government without much financial and enforcement power. The country was divided into four-tiers: national, zonal (14), districts (75) and village and town Panchayats (4000). Whatever decentralized practice were made, all were in top-down form with upward accountability. The form of decentralization was mainly deconcentration and delegation rather than devolution (Dahal et al. 2001).

4.4 Local Government System 1990-1999

Like other developing countries, Nepal cannot live detached from the changing global scenario. Globalization has impacts in every sphere of the country's economic, social and political matters. Economically, it has adopted liberal and market economic policies especially after the restoration of democracy in 1990. Politically, it stepped up to the era of multiparty democratic exercise after 30 years of Panchayat polity. Now, after the success of the second people's movement in 2006, Nepal is heading towards restructuring the state under the spirit of an Interim constitution of Nepal 2007 (Government of Nepal 2007: 13). Socially, it raised public aspirations coupled with press freedom thus demanding more accountability and transparency within the government. Along with these changes, the governance system was influenced by various international conventions, multilateral and bilateral aid conditionality and selectivity.

Following the constitutional change in 1990, three separate local bodies' acts for district, municipality and village development committee levels were promulgated in 1992. These acts also were criticized as the continuation of the former acts because they were more a kind of deconcentration, devolving accountability and responsibility without enough resource and power. The decentralization process also received priority in subsequent Eighth (1992-1997), Ninth (1997-2002) as well as Tenth (2002-2007) periodic plans which focused on the agenda of poverty reduction through proper service delivery, inclusion of marginalized people in the governance system, promoting participation etc. The government enacted the 1999 Local Self-governance Act consolidating the three former separate acts promulgated for local bodies. This act is said to have given more autonomy to local bodies than the previous acts did.

4.5 Local Self-Governance After 1999

The Local Self-Governance Act has given local bodies greater political, administrative and financial powers to lead, facilitate and manage local self-governance and participatory development. In the course of implementing LSGA several initiatives have been made. The Tenth plan (2002-2007) linked decentralization with good governance and poverty reduction. The recent interim plan (2007-2010) after the political change in 2006 has continued the commitments towards the implementation of LSGA. It has considered amending contradicting laws with LSGA a challenge to expedite devolution. It stressed on poverty reduction through involving local people in resource mobilization, utilization of local skills and indigenous technology and creation of employment opportunity

through decentralization (National Planning Commission 2007: 78-79). A detailed analysis of implementation of LSGA is presented in the next chapter.

CHAPTER FIVE

IMPLEMENTATION OF LOCAL SELF-GOVERNANCE POLICY IN NEPAL

5.1 Introduction

Even if Nepal initiated decentralization in 1950s, mostly it was from administrative purpose with the view of extending presence of centre to the local level. Decentralization was a popular policy to put in the policy paper but not in practice. The ruling elites both political and bureaucratic worried about losing control and power over the local bodies if devolved. Therefore, in policy document it gained priority as progressive slogan but resulted with very weak implementation. The 1999 Local self-governance Act is the most recent development in the history of decentralization in Nepal, which has devolved functional, structural, financial and managerial powers to local bodies.

There are two levels of local governance in Nepal: district and municipal/village. Since the promulgation of the 1999 Local Self-Governance Act and the 1999 Local Self-governance Regulations, the local bodies have more responsibilities and power than ever before. Various political, administrative and institutional initiatives have been made for effective implementation of the policy. This chapter analyzes the major characteristics of the 1999 LSGA and its achievements made so far. Then it examines impact of external and internal environments in the implementation of LSGA through a stakeholder analysis.

5.2 1999 Local Self-Governance Act, an Analytical Review

Scholars have different arguments regarding the features of the 1999 Local Self Governance Act. Some viewed it as the act giving maximum autonomy to the local bodies and others criticized as another version of deconcentration. Local Self-Governance Act is the first integrated and comprehensive law of local bodies. Previously, there had been separate acts for different layers of local governments. This act has more conceptual clarity about the decentralization than the previous acts since it had not been clear whether the government wanted devolution or deconcentration (Dhungel 2004: 4). In one respect, it is true because decentralization during Panchayat era (1960-1990) was politically profiled but never exercised in any real sense. It was practiced to strengthen centralized governance system in the form of deconcentration. The centre was not ready to give away power to the local level. While, the situation now has improved at policy level, implementation continues to encounter similar problems.

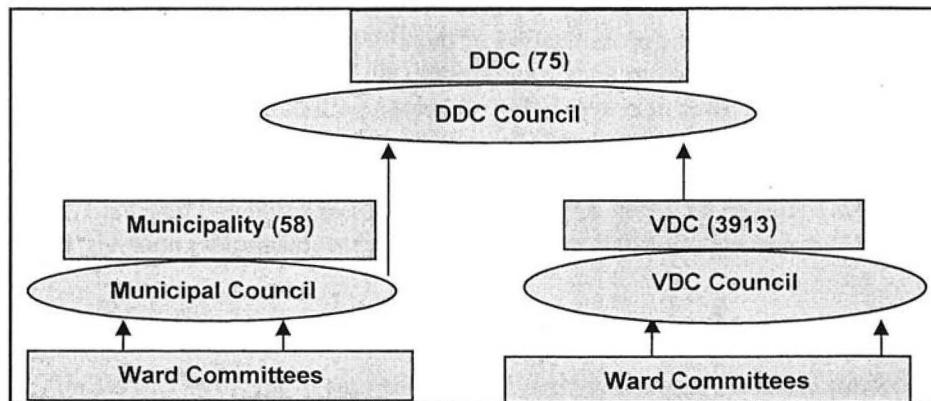
5.2.1 Vision and mission of local self-governance

One noteworthy feature of the 1999 LSGA is its preamble which envisions of granting more political, administrative and financial authority to the local level. As per the preamble, decentralization is taken as a means of: strengthening democracy, participation of sovereign people, maintaining social equity, mobilizing and allocating resources of their own region for their own development, developing local self-governance to enable local bodies to fulfil needs of the people and developing local leadership (see appendix 1a).

To achieve the objectives as envisioned in the preamble, the act presents principles and policies like the devolution of powers, responsibilities, means and resources to the local bodies to discharge the functions duties and responsibility and accountability conferred to the local level (see appendix 1b). It builds an institutional mechanism capable of considering local people and bearing responsibilities by establishing a civil society based on the democratic process, transparent practice, and public accountability. But critics are of the opinion that the local bodies are not capable of exercising the power granted by the law. A study report presents that the autonomy of local bodies is limited by their economically fragile situation (Gurung 2005: 42) among others. Therefore, this policy can be considered as an ambitious policy constrained its implementation by the low capacity and weak resource base of local bodies.

5.2.2 Continuation of two-tier system

FIGURE 3
Structure of local self-governance bodies



Source: 1999 Local Self-Governance Act. Kathmandu: Law Book Management Board, Nepal, modified by the author

As in the previous acts, the 1999 Local Self-Governance Act continues the two-tier system at local level: district and VDC/Municipality. There are 3913 VDCs, 58 municipalities and 75 DDCs. These contain respective councils and executive committees. The DDC has been the main planning body and coordinator of plans and programs of the VDCs and municipalities. Institutions have already reached to the local levels. However, from managerial and efficiency perspective, existing number of local bodies are considered quite high and need a revision to reduce the number of local bodies and their representatives. The rationale behind is that the greater number of local bodies required larger number of representatives resulting higher overhead expenditure. Thus, the number of local bodies and corresponding representatives (see table-2) are proposed to be reduced to make them economically and managerially feasible units (Gurung 2005; Local Authority Fiscal Commission 2000). The need for revision has also been presented in a report presented to the government by the High Level Decentralization Coordination Committee (1996). Considering this reality a provision is made in the act for revision of the boundaries of local areas. But so far no initiatives towards this have been made.

TABLE 2
Number of Representatives in Local Bodies

Organi- zation of Local body	Maximum and Minimum Number			Total number of represen- tative			Total No
	DDC	Munici- pality	VDC	DDC	Munici- pality	VDC	
Council	42-262*	53-197	53	9438	4262	201737	215437
Execu- tive	14-28*	13-39	13	1492	1038	50869	53399

*Excluding the Member of National Council (ex-officio member)

Source: Local Authority Fiscal Commission Report, 2000; Government of Nepal, Local Authority Fiscal Commission

5.2.3 Roles, responsibilities and rights of each level of government

A remarkable feature of this act is the delineation of the roles, responsibilities and rights of each level of government. According to the act the central government is responsible to implement policies, co-ordinate and monitor decentralization through Decentralization Implementation Monitoring Committee (DIMC); monitor and supervise Local Governments (LGs) and build the capacity of LGs. Moreover, central government authorized to provide financial resources and grants to the local bodies, depute secretary to conduct day to day functions, demarcate administrative boundaries, classify LGs, hold elections and suspend or extend the tenure of LGs. While analyzing the roles provisioned in the act, the centre has some flexibility about the degree of autonomy granted to the local bodies. The government can use its power to give direction and to introduce special programs to minimize the role of LGs. Similarly, despite the guarantee imparted by the act about annual grant to be awarded to local bodies, selectivity criteria mentioned in the act (section 236)⁷ favour the resourceful local bodies that might jeopardize those which need more resources.

Local bodies are made responsible for delivering sectoral services such as education, health and agriculture etc by establishing their own sectoral units. VDCs and Municipalities are entrusted with powers, functions and responsibilities in the 11 and 12 areas respectively. Similarly, districts are entrusted with sixteen areas (see appendix 2). However, there are several overlaps in scopes of works among local bodies and between the central and local bodies. As a result, the centre continues working in local level even if they can be performed well at local level. For example, while approving plans and programs; centre (National Planning Commission) still imposes programs other than local plan and program proposed following the due process under the act. This is because of the power, functions

⁷ The section provisions the government to provide annual grants on such basis of population, level of development, possibility and capability of mobilizing revenues, necessity of financial resources, regular record keeping of incomes and expenditures, situation of auditing and financial discipline of the concerned local body.

and responsibilities overlapped with each other within the same area. There is no enforcement mechanism in case of encroachment of jurisdiction to other local bodies.

In addition, local bodies are authorized to prepare periodic plans and programs and made responsible to coordinate and build partnerships with civil society in programming, planning and service delivery. Moreover, the act provisions the local bodies to raise revenue from local taxation, fees and other sources. DDCs are authorized to report irregularities and inefficiencies of government programs operated at local-level. One vital issue for local self-governance is the devolved tasks being carried out by government line agencies because of overlapping of jurisdiction among sectoral agencies with that of 1999 Local Self-Governance Act. Main reason for this is no acts that contradict with the LSGA have been amended irrespective of government decision.

5.2.4 Inclusion and representation

Nepalese society is based on the cast system. So called high caste (Brahmin & Chhetri), low caste and untouchability has created a kind of exclusion to certain cast in the society. This exclusion has been reflected also into the governance system. The 1999 Local Self-Governance Act made provisions for representation of weaker sections of society in planning, programming and implementation. For example, LSGA authorizes Village Councils to nominate six persons as council members: one woman and others from among the social workers and economically and socially backward tribes and ethnic communities, down-trodden and indigenous people. In case of municipalities, six to twenty members (40 percent) have to be women. LSGA also provides for the representation of these groups in the respective executive committees. In this manner, inclusion in policy decision and program design as well as implementation has been maintained to some extent. This provision for example provides an opportunity to minimum 40, 000 women representatives to participate in local governance and even more people from deprived sections. The experiences show that the participation of women and disadvantaged groups in the local governance is limited to the quota. Given the backwardness and lack of political consciousness among local people, there is high possibility of elite capture at local levels in terms of representation leaving deprived people excluded.

5.2.5 Participatory planning process

The act made participatory bottom-up planning, periodic planning, resource mapping and establishment of an information centre compulsory for LGs (section 197). The plans are required to come up from ward level to get approved from the respective councils. The programs, operated from internal resources do not need to forward to district level. Only the programs that need district or national support are discussed at Ilaka-level (cluster of VDCs and Municipalities) and forwarded to the sectoral committees to prioritize and finalize. Then only the programs go to the district council for approval for subsequent approval from the National Planning Commission. This bottom-up process indicates the participatory planning process provisioned in the act. However, there are some issues that remained unresolved. A pertinent issue is lack of mechanism for negotiation and coordination between LGs and the government and between LGs themselves on planning and budgeting. The next is ad-hocism in planning process because of inadequate information and database. Moreover, it is also frequently complained that local priorities are changed at national level. Lastly, a provision of the Constituency Development

Program⁸ is argued to jeopardize the authority given to the local bodies (Dahal et al. 2001: 54).

5.2.6 Personnel system

One of the fundamental elements for granting local self-governance is the independence of personnel management at the local level. For the first time this act recognized the necessity of a separate service for personnel in local bodies. The act has a provision for a 'local service' to discharge the functions of local bodies. After the constitution of the local service, government appointment of secretaries at local level is provisioned to end (section 255). Local bodies will have their own staff accountable to local people instead to the centre. Presently, there are two kinds of staffs. The first is the staffs deputed by the central government and the second is local government's own staffs. Ministry of Local Development appoints the secretary to all local bodies as the chief of all other staffs. The act has given authority to the government to depute additional staffs to the local body to carry out the functions to be carried out by the local body.

The government authority to withdraw or transfer its staff contradicts with the necessity of local body. This has left the local body with high turnover of staffs. As the government appointed staffs are vertically accountable to the central government for their performance, career opportunity and other benefits, they are naturally more responsive to their respective line agencies rather than to local body⁹. This has created a conflict between local governments and the civil servant who have structurally and professionally centralist attitude. There lacks incentives for the civil servants to be more accountable and responsive to the local body. The 'local service' as envisaged by the LSGA has not yet been formed. Critics assert that government deliberately is delaying its formation to retain administrative control over local bodies.

5.2.7 The role of civil society

The act further recognized the role of civil society and NGOs in local development. While preparing the respective annual and periodic plans and their implementation, the local bodies are required to encourage, involve and coordinate the consumer's committees and NGOs. Local bodies are authorized to motivate civil society (NGOs and CBOs) to participate in identifying the local needs, formulating, approving and implementing the plans and programs as well as monitoring and supervising the process (LSGA 1999). The act has provisions for all local bodies to give first priority to consumers' groups to implement local level projects (section 49,171,205). Despite this, local bodies are said to be weak in social mobilization skills and financial resources.

⁸ Under Constituency Development Program each Member of Parliament (MP) gets one million rupees to spend in his/her constituency.

⁹ <http://www.unescap.org/pdd/prs/PublicationsResources/huset2003/lgstudy/new-countrypaper/Nepal/Nepal.pdf> accessed on 25 October 2007

5.2.8 Accountability

The act has made provisions to make representatives as well as local institutions accountable. Members of local bodies are required to declare their assets publicly after taking oath. The Chairman and Vice-chairman of respective local bodies are required to declare their records of assets also after relinquishing office. Similarly, the respective audit committees are authorized to scrutinize expenditures. However, declaration of assets after relinquishing the office is not generally practiced. This is an issue even for high-ranking officials like Ministers. Similarly, the making the audit report public is rarely practiced at local level.

5.2.9 Monitoring the implementation of local self-governance

Policy implementation needs proper monitoring to guarantee whether the provisions have been executed in accordance with set objectives. LSGA has a provision to establish a Decentralization Implementation and Monitoring Committee (DIMC) to monitor its implementation (section 241) under the Prime Minister's chairmanship. The composition itself seems to be more idealistic rather than realistic since it comprises the members who used to be most busy in their respective affairs. For example other members are comprised of the leader of the opposition party and political party members in the parliament, Chief-secretary and Secretaries of concerned ministries and civil society (chairmen of the associations and federations relating to the local bodies). Critics assert that such a high level committee also contributed to some extent to impede implementation. The presence of the leader of the opposition party is also criticized on the ground that he/she may not support the government for his political gain. The working procedure of the committee has a provision of three meetings a year (Decentralization Implementation and Monitoring Committee 2002). But so far only three meetings held till 2002. This indicates the criticisms have some logical ground. Since 2002, implementation of decentralization policy could not make a pace as it was before.

The 1999 Local Self Governance Act recognized the local bodies' associations (ADDCN, MuAN and NAVIN) as the member of Monitoring Committee. These associations are pro-active in advocating for effective implementation of LSGA. They actively engaged in formulation of the act itself and contributed to prepare the amendment bill contradicting to LSGA. These associations conduct various studies and present report to the government for necessary policy decision to implement the act. Because of the political situation and political vacuum at local levels, these institutions are not being able to play innovative role in favour of local self-governance.

5.2.10 Centre-local relationship

The relationship between the government and local body is established through various means like: planning guidelines, directives, deputation of human resource and provision of grants etc. LSGA has granted autonomous legal status to the local bodies. However, the centre holds some power to maintain integrity, stability and smooth functioning of overall administration of the country. In administrative part, the government controls local bodies by appointing secretaries at each level until the other provision is made through the local service. Moreover, the government holds power to give direction to local body in implementing the law in relation to giving priority to backward communities, women and children and maintenance of ecological balance (section 234).

Further, the government is able to formulate and introduce a special program to consolidate and enhance the capacity of the local bodies (section 235). However, it is criticized as it may be misused by the government to intervene local governance in the name of capacity building. Next is the government control of local bodies through budgetary provisions. Local bodies are highly reliant on central treasury as they lack adequate resource-base to function autonomously. The central-local relation is also shaped by government power to suspend a local body in case of jeopardizing the sovereignty, national unity and communal harmony in the country or in case of financial irregularities (section 238). Regarding this provision, critics state that the act is silent about action against responsible actors responsible for the situation and only penalized is the local body. Last but not the least; the centre has a role in formulating periodic and annual plans and programs. The government issues directives on national development policy through National Planning Commission and respective line ministries to avoid duplication and to ensure that local plans match with national policy and priorities.

5.2.11 judicial authority

Judicial authority makes local self-governance more effective. The act has granted local bodies the power to hear and settle minor cases like land boundaries, crop damage, forced labour etc. Local bodies are authorized to form arbitration boards to hear and settle the cases filed in the respective local bodies. However, the exercise of judicial power is constrained by the provision made to notify in the Nepal Gazette, which has not yet been done. The local bodies are also granted authority to pass bylaws for their functioning.

5.3 Major Initiatives towards Local Self-Governance

A perennial problem of policies in Nepal is weak implementation. Local self-governance policy earned political, bureaucratic and donor support but it also has the same fate as other policies. Brownell and Bracegirdle (2002) argue that, even if sound groundwork has already been put in place, the process of decentralization is lagging far behind. However, some initiatives have been made towards implementation. This section briefly highlights those initiatives.

Being the first year for the implementation of the LSGA, the government in fiscal 2000 adopted a concept of 'Gaun ko Adhikar Gaun Lai' (power to the village). The government provisioned resources for the VDCs/municipalities by means of land revenue (75 percent of the revenue) and local development fees, in addition to the registration fee, entertainment fee and house tax as envisaged in the 1999 LSGA (Ministry of Finance 2000/2001). The government decided in 2002 to go for sectoral devolution in certain sectors: agriculture-extension (including livestock), health, education, postal service and rural infrastructure development. As of 2006, sectoral devolution has handed over 2,263 primary schools to local communities. Agriculture/livestock extension activities have been devolved in all districts. Similarly, more than 1,417 local health institutions (including primary health centres, health posts, and sub-health posts) have been handed over in 28 districts. In local infrastructure, works such as rural roads, drinking water and small-irrigation have been devolved to local bodies. In addition to that, initiation for devolution of infrastructure is proposed as Local Infrastructure Development Policy (Ministry of Local Development 2007a). However, the postal service has not yet been devolved.

As envisaged in the LSGA a Decentralization Implementation Plan (DIP) was approved at the third meeting (2002) of the Decentralization Implementation and

Monitoring Committee. This plan comprises a time-bound (immediate, three years and five years) implementation plan incorporating responsible agencies to implement their respective activities (DIMC 2002). The government also decided to establish a District Technical Office (DTO) eliminating other technical offices to cope with the short of technical manpower faced by the local users groups (Ministry of Finance 2001/2002). The DTO was brought under the administrative jurisdiction of DDCs in 2003.

A provision to share tourism royalties with the concerned DDCs is part of the 1999 Local Self Governance Regulation (LSGR). A mechanism for revenue sharing of hydro-electricity project also has been set. For example this provision is exercised in case of Kaligandaki hydro project. In addition, the government adopted a policy to share half of the electricity royalty with the concerned districts (Ministry of Local Development 2004a). It also initiated the distribution of block grants to DDCs according to a poverty-based formula. The formula constitutes the indicators with respective weights like: Human Development Index of a particular district (50 percent), population (20 percent), area of the district (10 percent), cost of transportation (0-20 percent), and position of the internal revenue. While the same mechanism was decided for the VDC block grant, it has not yet been applied.

In 2004, the government granted local bodies the authority to implement programs like rural electrification, forest development, school and health post construction, river control, roads, bridge, irrigation and water supplies with people's participation. In addition, the size of the block grant to a VDC increased from 300,000 rupees to 500,000 rupees with 200,000 rupees additional for efficient use. This program was initiated in 1994 with the popular slogan 'Afno Gaun Afai Banau' (Build Your Village Yourself). The grant now amounts one million rupees since fiscal 2006/2007. This VDC grant in one sense enhanced the planning, programming and implementing capacity through a learning-by-doing approach. However, there are some issues that it grass-roots corruption and treats all the VDCs homogeneously despite the reality of different resource needs.

February 1, 2005 brought about a new political scenario under direct rule by King Gyanendra amid fragile political situation. The government under the active monarchy committed itself to continue devolution of full responsibility to the local bodies (Ministry of Finance 2005/2006), but the endeavour of the royal government to reach the local level through local elections failed due to mass disobedience during the municipal election of 6 February 2006. The result was not favourable to the royal government since internally as well as externally the election could not gain legitimacy.

Preparation of District Periodic Plans (DPP) in 52 districts is a kind of positive achievements for bottom-up planning. In line with this concept, central budgetary allocations are aligned with district plans and sectoral ministries have been directed to be guided by DPP priorities. Similarly, 54 districts have prepared Citizen's Charters and 11 have begun publishing notices about job opportunities. In addition, capacity development is an important aspect for local bodies, which are considered weak. In this respect the second progress report (2005) of the Tenth Plan (2002-2007) states that 578 VDC secretaries have been trained up to July 2004. In addition to this, government has set up Management Information Systems (MIS), Geographical Information Systems (GIS) and accounting systems at 60 DDC offices to facilitate planning and implementation of local programs.

Citing the 2003 UNDP report, Khadka (2004: 37), twenty-two districts have prepared district profiles, 22 districts have prepared analytical resource maps and

17 districts have prepared analytical poverty maps, which are expected to enhance the planning and programming efficiency of local bodies.

To implement decentralization, government acquired foreign assistance to launch various capacity- building programs at local level. The assistance began with the Decentralization Support Project (1992-1995) and continued as the Participatory District Development Program (1995). It was followed by the Local Governance Program. The current Decentralized Local Governance Support Programme (2004-2007) is being implemented in 60 districts with the assistance of UNDP and Norway. Other districts are more or less covered by programs like District Partnership Program in seven districts, the Decentralization Advisory Support Unit in two districts, the Gulmi-Argkhachi Rural Development Program (terminated) and the Rural Development Program in three districts (Ministry of Local Development 2004a).

Capacity building programs at Municipal and Village level are in operation under donor-funded programs like the Rural Urban Partnership Program in 12 Municipalities and the Urban Development through Local Effort. Similarly, the Village Development Program (VDP) was launched in 662 VDCs through the Local Development Fund. However, given that there are around 4000 VDCs, this number is low. Some other programs for rural infrastructure are also in operation.

The government has issued various operational guidelines necessary for the smooth functioning of local bodies. These include:

- 2006 VDC Grant Program Operation Procedure
- Social Security Operation Procedure
- Agricultural and Local Level Road Implementation Procedure.
- 2006 Participatory Development Program Operational Procedure
- Constituency Development Program Regulation
- NGO Operation Guidelines at Local Level.
- Social Mobilization Guidelines

In February, 2000 a Local Body Fiscal Commission was established as provisioned in LSGA with the objective of conducting study and research about the tax to be levied by the local bodies in accordance of the law (section 237). It has presented a comprehensive report in 2000 containing recommendation for fiscal decentralization. Under the guidance of the Local Body Fiscal Commission, DDC and VDC block grants have started to flow directly from the Ministry of Finance to the concerned local governments. It is argued that this has made the budget disbursement to local level faster. But it has been an issue that the ultimate accountability of this budget remains at the Ministry of Local Development even if it has no control over that budget (block grant).

5.4 Actors Influencing the Implementation of LSGA- a Stakeholder Analysis

Policy implementation asks for participation of various stakeholders to sustain. The traditional administrative concept of policy implementation has changed through interactions with the environment. Various actors interact with a policy reform with a various continua of influence and stake. The intensity of influence and stake of an actor over a policy reform depends on the potential risk and benefit to that actor (Thomas and Grindle 1990). Here is a stakeholder analysis table to examine the influence and interest of various stakeholders in relation to the implementation of 1999 Local Self Governance Act.

TABLE 3
Stakeholders involved in the implementation of LSGA, their interest and influence

Key Stakeholders			
	Interests/stake	Potential influence	Relative priority of interest
Ministry of Finance	More revenue generation through local levels (+/-) Less hierarchy to reach the resource to local level (+/-)	High	Middle
The Government (the cabinet)	Keep the national integrity intact (+/-) Hold the control down to local levels(+/-) Unwilling to devolve (+/-)	High	Middle
DIMC	Get implemented the decision made by the committee(+)	High	Middle
Other line Agencies (Ministries)	Hold sectoral portfolios under own jurisdiction (-) Reluctant to leave power and resources to local level (-) Do not want to de-link the relationship with the devolved services, as there is respective field of expertise. (+/-)	Middle	Low
Donor Agencies	Reach to local levels directly without bureaucratic control (+) Capacity development of local people in favor of local self-governance (+) Strengthening local bodies (+)	Middle	Middle
Parliament	Pass bills tabled about contradicting laws (+)	High	Middle
Political Parties	Leadership development at local level (+) Popular vote (+)	High	Middle
Primary Stakeholders			
Local people	Service from nearest service unit (+) Better and efficient service delivery (+/-) Participation in local level decision making (planning, programming, implementing, and evaluating) (+) Transparency and Accountability in local governance (+) Public control over Power and resources (+/-)	low	high

DDCs, Municipalities/VDCs	Devolution of responsibilities along with power(Executive, Legislative and Judiciary) (+) Autonomy (Administrative, Political, and Financial) (+) More responsibility, more work, more capacity needed (+/-)	low	high
Secondary Stakeholder			
Ministry of Local Development	Achieve devolution as envisaged in the LSGA(+) Control over local level program and their implementation (+/-) Maintain link with local levels (+) To achieve cooperation of other line agencies for sectoral devolution success (+) Low interest to lose power (-)	Middle	Middle
NGOs	Local level service delivery programs (+) Legitimacy and cooperation from local bodies (+)	Low	Middle
Civil Society Organizations	Role in policy decisions (+) Expedite the process of devolution (+) Recognition from the government (+) Advocacy in favor of devolution (+)	Middle	High

Source: www.euforic.org/gb/stake1.htm accessed on Aug 18, 2007 and improved by the author as needed.

The relative influence and interest have been divided into three categories as low, middle and high and given sign to the respective interest with plus if decentralization contributes to fulfil the interest and minus if it obstructs and both if there is possibility of both. The stakeholder analysis is not based on the fieldwork but on the study of documents that are available as references.

The stakeholder analysis table helps look into the response of the related actor towards a policy reform although exact calculation is not possible. The above table indicates that the key stakeholders with the highest influence and power to implement the policy have paid little or middle interest. They seemed reluctant to relinquish power and resources that they have long been exercising and appropriating respectively on their own discretion. However, stakeholders like local people and local bodies associations have high interest but low influence and power. This has created conflict between the two categories of stakeholders on the issue of total devolution. For example the civil society organizations pressurize the government for full devolution of power and resources to the local level as envisioned in the preamble of the act. But the people who hold the power (political and the bureaucratic leadership) are afraid of allowing people to share this power (Gurung 2005: 41).

The secondary stakeholders are in-between positions. They are reluctant to work to fulfil the aspiration of the act. This is reflected in the slow pace to constitute 'local service'. A decision was made in 2001 by the DMIC, to establish

'local service' as provisioned in the act. Again it was placed in the annual program of 2003 but still it has not been established. Similarly, the bill contradicting LSGA is still in the parliament. The line-ministries have not paid adequate attention to devolve their respective local units to the local bodies. They still want to control the local units through budget and program. The role of political parties is crucial in the implementation of the policy. Despite continued commitment in their political agenda, decentralization effort has not been successful. Unless the key stakeholders along with the others are ready for devolving responsibilities with all kinds of powers (political, financial and administrative), the 'local self-governance' will be limited only to lip service.

CHAPTER SIX

ANALYSIS OF THE 1999 LOCAL SELF-GOVERNANCE ACT FROM POLICY IMPLEMENTATION PERSPECTIVE

6.1 Introduction

As analyzed in chapter five under the stakeholder analysis, different stakeholders have different interests and influences over the implementation of LSGA. Implementation is a crucial but neglected phase of the policy process in Nepal. Some argue that policy-making is a political and implementation is an administrative process. It is in other words a linear process. However, Thomas and Grindle argue that it is more an interactive process. They argue that policy characteristics determine (in part) the response to a policy:

Central to the analysis is the assertion that characteristics of the reform (or policy) being implemented will largely determine the kind of conflict it engenders, where such reaction is likely to become manifest, and what resources are needed for sustainability (Thomas and Grindle 1990: 1163).

Here, characteristics of the policy can be of many kinds. It can be viewed as per the *cost and benefit* it incurs in the process of its implementation. Who gets what and when determines the implementation. If the key stakeholder benefits from the policy and has a power or resources, then the possibility of implementation is higher. It also depends on the other stakeholders as well. Greater reliance on more stakeholders makes the implementation more complex. Similarly, the *level of administrative and/or technical contents* also affects the implementation because it requires more time and resources. It is also argued that, if a policy needs more *participation* from beneficiaries and target groups, there is a possibility of incurring higher cost and more time to invest. Bjorkman (1994) argues that policy implementation depends on many elements ranging from political stability to public support, technical soundness to bureaucratic motivation. He suggests the factors that influence policy implementation as mentioned in chapter two. Hereunder is analyzed the characteristics of Local Self-governance Act that determine its implementation on above mentioned grounds. This is followed by constraints of policy implementation which is focused on answering the research questions as well as proving the hypothesis put forward in the first chapter.

6.2 Policy Characteristics and Resources for Implementation

From the stakeholder analysis in the chapter five, it became clear that effective implementation of the local self-governance policy involves higher stakes to the political and bureaucratic elites since they have to relinquish more power and resource that they have been enjoying. The fear of losing power and resource reduced enthusiasm to implement the policy. For example the Ministry of Health does not look interested to hand-over the manpower, the infrastructure it has developed and does not like to lose the size of annual budget allocated for the health-posts under its budget head. Therefore, despite commitments in policy documents and political party agenda they seemed reluctant to devolve political, administrative and financial power to the local bodies.

Similarly, some provisions made in the 1999 Local Self-governance Act need some expertise and technical knowledge to implement. An absence of those knowledge and skills in local levels has weakened implementation. For example, the government might argue that the local bodies especially municipalities and VDCs lack enough human resources and capacity to exercise judicial power that has been provisioned in the 1999 Local Self-governance Act (section 33,101). Similar kind of arguments has been given against allowing local bodies to fix the tax rates themselves (section 55,136,215). This scenario is also seen in planning process especially at VDC level. They are allocated with an amount of one million Nepalese rupees annually but most VDCs lack manpower capable in planning, programming and budgeting or capacity to spend it leaving mostly the resources misused. The block grant of this kind addressed the issue of resource scarcity to some extent but this has criticized as the cause of resource dependency reducing autonomy and increasing the probability of corruption and under-use of resources.

State of participation of different stakeholders also determines the implementation of a policy. More participation needs more efficient coordination and cooperation for better implementation. In case of local self-governance policy in Nepal, there are many stakeholders involved in its implementation. Ministry of Local Development is made responsible to work as liaison institution in decentralization matters. But because of hierarchical matters and structural reasons, other line agencies are unwilling to cooperate to devolve power and resource to the local bodies. Therefore, coordination and cooperation of stakeholders is not satisfactorily achieved. This has made sectoral devolution process slow.

Local Self-governance policy in principle is not unpopular policy. There is no resistance from people in its implementation. In addition, this is not a policy that generates immediate and strong reactions in public arena; rather it takes longer period for a visible impact. It is ideally a policy that places the public services closer to the people. Therefore, there is fewer possibility of opposition to emerge from public arena while implementing the policy unless the benefit is captured by some stronger elites. But the people are not organized to be able to exert pressure to influence implementation. The Local Bodies Associations, however, are working as civil society in favour of effective implementation of the policy. But it is not working much effectively since the local election could not be conducted since 2002 due to Maoist insurgency.

As devolution of ever enjoying power and resource put the political as well as bureaucratic leadership at risk, resistance is being observed especially in amending laws contradicting to 1999 LSGA and constituting 'local service' despite political as well as bureaucratic commitments. These are the major impediments to implement the policy. The political and bureaucratic elites hold more power and influence on implementation but lack incentives to work as a catalytic force to implement the policy effectively.

Given the characteristics of the policy mentioned above, the following section examines whether the resources necessary for effective policy implementation are available in the context of implementing LSGA in Nepal or not.

6.2.1 Political stability and support (by groups, parties, classes, leaders)

It is argued that decentralization fosters political stability by strengthening democracy. Nepal has been exercising decentralization in various forms like deconcentration, delegation and devolution for over forty years, but political stability has not been achieved. During past thirteen years of multiparty polity, the country experienced a similar number of governments (see table 4). All

governments claimed to favour local self-governance but it was not translated in reality.

The major attention of the then governments was to remain in power for as long as possible. Local self-governance was limited to policy documents and party manifestos. As mentioned earlier the policy contains moral support from every aspect by either local people or political leaders or civil society organizations and even donor agencies. Even the then rebel group 'the Nepal Communist Party (CPN) Maoist' was in favour of this policy since it was demanding a federal state. However, every government was keen to protect the interests of its own governing elites rather than maintaining political stability or giving impetus to the mission of local self-governance.

Hereunder are the details of government change over the last 15 years to provide a scenario of frequent government changes coupled with political instability that weakens the policy implementation.

TABLE 4
Government change after 1990

Year	Government
1991	Majority government of Nepali Congress
1994	NC government defeated in no-confidence motion led to mid-term election followed by Communist Government led by Nepal Communist Party (UML)
1995	Communist Government dissolved after 9 months followed by NC-led minority government
1995	Nepal Communist Party (Maoist) begins insurrection in rural areas aimed against the monarch and for establishing a people's republic
1997	Nepali Congress (NC)-led government loses no-confidence motion, ushering in a period of increased political instability with frequent changes of prime minister (4 times).
2000	NC returns in power, heading ninth government in 10 years.
2001	Massacre of the royal family
2001	NC government led by Girija Prasad Koirala quits over the violence; another NC leader leads the government; political instability continues
2002	Parliament dissolved amid political confrontation over the extension of emergency called in 2001 and fresh election called. Violence continues. NC leader heads the government.
2002	King Gyanendra starts intervening on government. He dismisses the government and indefinitely puts off elections set for November. Royalist leader of National Democratic Party(RPP) leads the government
2003	The Royalist leader resigns as PM; the King appoints his own nominee-another royalist leader of another faction of RPP.
2004	Royalist Prime Minister resigns following weeks of street protests by opposition parties
2004	The King reappoints the sacked NC leader as the PM of a new government chaired again with the task of holding elections.
2005 Feb. 1	The King Gyanendra dismisses Prime Minister and his government, citing the need to defeat Maoist rebels and assumes direct power.
2006	The King reinstated the parliament and appointed NC leader as Prime Minister.

April	Maoists rebel called a three-month ceasefire
2006 Nov.	Maoists declare a formal end to a 10-year rebel insurgency
2007 Jan.	Maoist leaders joined the parliament.
2007 April	Former Moist rebels joined the interim government

Source: http://news.bbc.co.uk/2/hi/south_asia/1166516stm, accessed on September 4, 2007

The pattern of the formation and fall of governments within the period of 1990-2006 averages one government a year. This frequent change of government reflects the state of political instability in the country. These changes also shadowed the policy priority of one government by the other, even if all claim to favour local self-governance. The political instability was aggravated by armed movement (named as people's movement by the CPN, Maoist) in the country. The presence of the government was reduced to district headquarters thus leaving local people deprived of public service delivery. Development budgets kept decreasing since development activities at local level were difficult to operate. The priority of the government shifted from other policy issues to the security issue. Therefore, the devolution process as envisaged in the policy lagged behind.

6.2.2 Resource availability

Dahal et al. (2001) argue that local bodies in Nepal rely heavily on grants, loans or subsidies from the government. This reliance fostered a culture of paternalism and dependency. The dependency for resource reduced the autonomy provided by the law.

Most local governments do not have a viable resource base to fulfil their local development needs. Local products are not linked or very poorly linked to the market, which undermines their sustainability. Feudal system led the main occupation 'agriculture' hardly enough for subsistence with no surplus (Dhungel 2004: 68). Furthermore, local bodies lack taxable assets as provisioned in the act. This leaves very poor tax base for revenue generation.

The Local Self Governance Act and 1999 Local Institutions (Financial Administration) regulation authorizes the local government units to mobilize resource from different sources like government grants, internal resources and loans, grants from various funding agencies and organizations including banks, INGOs, NGOs and private individuals. The act allows the local bodies to receive foreign aid with prior approval by the government. But very few local bodies are able to enjoy this facility because of their weaker position.

Municipalities which are relatively in better position in revenue generation, left fragile after the introduction of local development fee at the place of octroi (entry fee on goods and services) and vehicle tax (both formed 78-85 percent of internal resources). As the local development fee is received at the costumes office and returned back to the respective municipalities, the municipalities are made dependent on centre than before (Local Authority Fiscal Commission 2000: 54).

VDC are more reliant on government grants. The devolution of power for land tax let the VDCs and municipalities to keep 75 percent for their own use. This constitutes a reliable source of income. But there is high inequality in land revenue generation depending on the region they located. The flat disbursement of grant

amounted one million rupees per year, ignored the needs of the VDCs and encouraged the financial irregularities.

Revenue-sharing is also provisioned in the LSGA between the local governments and the central government. The areas to share are land registration and land taxes, hydroelectricity, tourism fee, petroleum products, sale of sand, gravel and boulders, fallen timber, etc. There is also disparity in resource generation among the local bodies. For example, internal sources of DDCs make up 10 percent of their total financial sources, but for municipalities and VDCs the share is above 50 percent and 25 percent respectively. The more the local bodies are well off in revenue, the more they enjoy relative autonomy. Local bodies in the Terai (southern low land) region as well as in city areas can generate considerable amount of revenue but others lag behind (ibid.).

6.2.3 *Bureaucratic acceptance and motivation (career objectives as well as agency budget)*

Bureaucracy is the implementing agent of the government. Policy implementation remains weak if bureaucracy does not support it. There are two layers of bureaucracy under the Ministry of Local Development. One is ministerial level and the other is local level. Government appoints the secretaries of the local bodies as the head of the staffs to perform day-to-day work.

In view of local self-governance, the local bodies need to have the employee accountable to the people and the local bodies. However, the secretaries of the local bodies are bureaucratically accountable to the ministry for their work instead of to the local people. The ministerial bureaucracy is reluctant to devolve administrative power to local level. This is reflected in the delay of the constitution of 'Local Service' as provisioned in the act (section 255). As the employees are recruited, appointed and controlled by central level, remote VDCs always lack employees. Actually, there is a little incentive to work at the local level, particularly in remote areas. There is no mechanism to penalize the concerned authority if people are deprived of local services by not deputing staff in a particular local body. Moreover, instead of giving autonomy to the local level, there are still some local-level parallel institutions which contradict with the notion of local self-governance. For example, the Chief District Officer's Office play dominant role in administering the district-level functions including development activities.

6.2.4 *Technical soundness (clarity of goal, objective, strategies)*

Government is blamed for lacking a clear view of the local self-governance and the extent to which power should devolve to local level. A policy paper in 2004 presented at the Nepal Development Forum (NDF)¹⁰ reported that the orientation and commitment of central level government institutions towards decentralization are not proactive in taking ownership and accountability. This is accompanied by a lack of political will and commitment, the absence of political bodies since 2002, and the lack of capacity-building and system development of local bodies. Even if the LSGA has specified the roles and responsibilities of various institutions and

¹⁰ NDF is an international forum that constitutes international donor agencies. They meet once a year, discusses on the development policies and express commitments for the assistance for coming fiscal years.

staff working therein, the definitions of tasks and jurisdictions of job at different levels are lacking (Ministry of Local Development 2004b).

6.2.5 *Autonomy and discretion (flexibility)*

Autonomy and flexibility of local bodies depend upon the extent of the devolution of political, administrative and fiscal power from the centre for self-management. In Nepal, the LSGA on local government institutions specifies their autonomy as perpetually succeeding self-governing organized entities with separate official seal (official stamp), enjoy the right to acquire, use, dispose and sell off movable and immovable property and, like an individual, to sue and be sued in its own name in the court (section 13, 81 and 177). In addition the LSGA allows local bodies to pass by-laws for their proper operation. Likewise, it has drawn attention to capacity-building of local bodies and devolution of powers to collect and mobilize means and resources to discharge the functions, duties, responsibility accountability conferred to them (LSGA 1999). However, Sapkota (2007: 10) argues that the contradiction amongst the provisions made, limits the autonomy. For example, the sections 33 and 101 are related to judicial power of VDC and Municipality provisioned by the act is conditioned by the government notification for commencement which has not yet been published in gazette.

6.2.6 *Institutional capacity*

Despite various capacity building programs launched through foreign assistance, there is an argument that local bodies have less capacity to absorb decentralized responsibilities, authorities and resources. Gurung (2005) asserts that districts have no capacity to carry out the responsibilities incurred by the law because of their poor economic base. Not only local bodies, central institutions also do not have enough capacities to regulate, facilitate and guide decentralized actions and services (Ministry of Local Development 2004b). For example monitoring mechanism is weak. It is not clear whether the Ministry of Agriculture or the Ministry of Local Development is responsible for short-supply of agricultural inputs when they are needed by the farmers. This kind of uncertainty is impeding implementation. LSGA realizes the role of NGO, CBO and civil society and private sector. But there is a lack of proper mechanism of mobilizing them to avoid duplication of program and concentration of their actions at easily accessible areas. In addition, the size and number of the local bodies are becoming issue to hinder their capacity of delivering services. Some studies have recommended restructuring (widening size of local bodies and reducing the numbers) the local bodies to make them economically viable and functionally efficient unit (Gurung 2005; Local Authority Fiscal Commission 2000).

6.2.7 *Inter-governmental cooperation and coordination*

Decentralization is a crosscutting issue needing coordination and cooperation of various institutions and actors for proper implementation. Coordination has been a pertinent issue in implementing almost all policies in Nepal. So, local self-governance policy is also not an exception. LSGA contradicts various existing laws creating numerous overlaps in the jurisdictions of the government agencies. Generally it contradicts the laws which have jurisdiction down to local levels. An official document of the Ministry of Local Development realizes that LSGA has not been able to be fully operational because of 23 laws (so far found) contradict it (Ministry of Local Development 2007). While the government claims that it has tabled 10 of these laws in the parliament for amendment in 2003/2004 the dissolution of parliament could not let them to proceed for approval (Appendix-3).

This is one of the major excuses that the government put forward for limited implementation.

A government report points out that central agencies are not active in transferring the powers to local bodies as provisioned by the act (Local Authority Fiscal Commission 2000). Inaction of an institution that is set for better implementation also has impact on poor implementation of local self-governance policy. Decentralization Implementation Monitoring Committee was set to monitor the activities to guarantee proper implementation of local self-governance act but could not function well because of political instability. The Ministry of Local Development is made lead ministry in relation to decentralization. This has created a sense that the entire responsibility of decentralization initiative lies on the Ministry of Local Development. This led other agencies to give comparatively less attention for implementation. But decentralization without cooperation and coordination of other line agencies is not possible.

6.2.8 Public support

As mentioned earlier, there is no public oppose against local self-governance policy. But it is true that there is no enough advocacy and pressure in favour of it from people's side. Most people do not know about local self-governance. No local election held from 2002 that limited the political exercise at local level. That made the local bodies associations mostly dysfunctional. It could not play any constructive role in favour of local self-governance.

Therefore, local self-governance act lacks political commitment and political will for its effective implementation irrespective of political support. In addition, political instability and lack of resources also constrained the implementation. Bureaucratic resistance against devolution and their accountability issues are seen as obstacles. The act is considered ambitious as the institutional capacity of the local bodies could not match to shoulder the responsibilities conferred.

CHAPTER SEVEN

CONCLUSIONS AND RECOMMENDATION

7.1 Conclusions

This paper has analyzed the implementation of local self-governance policy in Nepal using the interactive models of policy implementation put forward by Thomas and Grindle. Furthermore, it has touched a global practice of decentralization along with its transition from deconcentration towards devolution. It also has examined the potential benefit and risks of decentralization. As the paper is focused on implementation of local self governance policy, efforts were made to put forward some conditions of local self-governance to compare it with the Nepalese situation. A historical overview was made to compare and analyze the forms of decentralization brought into practice in the various regime types. In addition, the paper presented an analysis of 1999 Local Self-Governance Act as a guiding policy followed by the various initiatives to implement it. A stakeholder analysis was done to scan the movers and blockers in policy implementation that helped analyze difficulties in policy implementation. Finally, the paper examined the gap between the policy provisions and their practice with reference to the characteristics of the policy and the resources to sustain its implementation.

Decentralization has been an integral part of governance system. However, in the one hand it places the service centre nearer to the citizens. On the other hand, it has been used as a means of central control over the local resources. Further, it has potential risk of creating regional as well as ethnic identity promoting separation rather than integration. The concept moreover, has been interpreted and used as per the convenience of regime types in various forms ranging from deconcentration, delegation to devolution or mixture of them. Therefore, this concept seems yet to be developed as a separate discipline in governance arena.

Despite various efforts made since last few decades towards local governance, local self-governance in Nepal remained in policy documents. The period between 1960 and 1990 were focused more on deconcentration and delegation under the Panchayat polity. The political change after 1990 brought some more authority to the local bodies through separate acts and regulations but could not substantially strengthen local bodies. The 1999 LSGA and the 1999 LSGR gave wider political, administrative and financial authorities to LGs. Despite many tasks devolved to the LGs, the legislation has failed to provide an enabling framework for them to carryout these tasks. The main problem is the overlap between the LG's new role and the fact that the devolved tasks are still being carried out by line agencies because of the existence of several laws contradicting to the LSGA.

The provisions made in the 1999 LSGA to strengthen local self-governance could not be significantly implemented. An implementation plan necessary for a policy to implement was not immediately promulgated along with the policy. Rather, it came into effect in 2002 (Decentralization Implementation Action Plan) delaying its implementation. This indicates a reluctance of political as well as bureaucratic leadership to implement the policy. The action-plan further was not accompanied with an implementation strategy as it is cross cutting issue needing effective coordination among various stakeholders.

Irrespective of political support in favour of local self-governance in policy papers, the same scale of commitment and willpower has not been shown in both

political as well as bureaucratic arena. Delay in setting local service, issuing note to allow local bodies (Municipalities and VDCs) to exercise judicial power, and transferring the sectoral units to the local bodies are some examples. Poor resource base of local bodies reduced their autonomy. The capacity development programs and the financial authorities given to local bodies could not improve the administrative, technical and financial strength of local bodies. The local bodies are still dependent on centre for financial resources, human resource and planning skills.

Higher stake on the key stakeholders reduces the likelihood of policy implementation. The analysis revealed that the implementation of LSGA is constrained by the key stakeholders like the line-ministries, Decentralization Implementation Monitoring Committee, the cabinet and the parliament which either seemed reluctant to relinquish the power to the local bodies or ineffective to monitor the implementation. It needs special attention towards reducing the risks for effective implementation.

The critics rightly assert that the LSGA is an ambitious policy needing technical, managerial and financial capability that most of local bodies lack. They are heavily reliant on the central treasury in one hand and in the other hand the grants and funds being provided by the centre are not need-based (especially in case of VDCs).

Political instability and frequent government change played a decisive role in weakening policy implementation. It was further weakened by an armed conflict during the implementation. Therefore, despite the policy received a sufficient space in plan documents and legal enforcements, popularly put forward by the political parties, continued to enjoy long history of practice and enough donor support, it encountered several implementation difficulties. The decentralization remained on paper rather than in practice. Therefore, Nepal needs for better policy design strongly supported by political commitment, bureaucratic acceptance and people's participation by establishing conditions to facilitate devolution.

7.2 Recommendation

Implementation of local self-governance policy in Nepal is constrained by lack of political will and bureaucratic acceptance. Therefore, initiatives towards fortifying political will and support are necessary for effective implementation. This will also help enhance bureaucratic acceptance. Clear delineation of roles and responsibility of each level of government creates an enabling environment to contribute for better implementation.

Political instability heavily obstructed the implementation of the policy. Because the devolution is related to relinquishing power and resource to local bodies, it is more political issue needing political consensus and commitment. Therefore, political understanding and national consensus is necessary for better implementation especially for a policy with cross-cutting theme.

Inconsistency in government laws is another crucial and obstructing factor to implement the policy. As mentioned earlier, several laws contradict to the 1999 LSGA. This demands a smooth functioning of legislative body. Now the country is in transition. It might take some course of time to stabilize the political situation and to resume parliamentary exercise which is necessary to get the conflicting act amended. Therefore, the new political situation developed with the aim of restructuring the state, should take a course towards political stability.

Majority of local bodies are deprived of financial resources and lack skills and knowledge to utilize available resources. Capacity development of local bodies is thus one of the major issues to address. Foreign assistance can be mobilised as per the local need to enhance the capacity of local bodies. The donor agencies either working to assist implementation of local self-governance policy or supporting for the periphery should be coordinated to strengthen local self-governance. The areas of capacity development could be several like: planning, institution management, resource mobilization, human resource development, preparing database, information management, conflict resolution, leadership development, service delivery and environment management.

One of the potential risks of decentralization is probability of weakening the state, disintegration of the country and regional as well as rise of ethnic conflict. To check these potential risks and to sustain devolution, a strong central government is a must. So, weak state is fragile for devolution. The present context of Nepal is so fragile that several ethnic groups are demanding the liberty of self-decision. For example demand for separate Terai autonomous region, Khumbuwan and Limbuwan region in the east etc are being made. This should not be the goal of self-governance. This kind of separatism should be discouraged which needs a strong state. Therefore, state should retain some power even to restructure governance system and to discipline the decentralized local bodies if they contradict with the national interest (Dahal et al. 2001: 53; Turner and Hulme 1997).

The local bodies are heterogeneous in resource availability, accessibility, population, information and other infrastructures. Therefore, a need-based approach of resource allocation is necessary to develop. This will also reduce the possibility of corruption and misuse of resources.

Political will and commitment are the main driving forces for effective policy implementation. This should be accompanied by some incentive mechanism to motivate the political as well as bureaucratic leaderships to devolve power to the local level. This can be a pertinent issue for a further research.

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APPENDIX

Appendix 1a

Preamble of 1999 LSGA

Whereas, it is expedient to:

Make provisions conducive to the enjoyment of the fruits of democracy through the utmost participation of the sovereign people in the process of governance by way of decentralization,

Institutionalize the process of development by enhancing the participation of all the people including the ethnic communities, indigenous people and down trodden as well as socially and economically backward groups in bringing out social equity in mobilizing and allocating means for the development of their own region and in the balanced and equal distribution of the fruits of development,

Have institutional development of local bodies capable of bearing responsibility, by providing such responsibility and power at the local level as is necessary to formulate and carry out plans, and

Constitute local bodies for the development of the local self-governance system in a manner that they are able to make decisions on the matters affecting to day to day needs and lives of the people, by developing local leadership,

Source: Local Self-governance Act, 2055 (1999): An act made to provide for local self-governance, Law Book Management Board, 1999

Appendix 1b

Principles of 1999 Local Self-governance Act:

- Devolution of such powers, responsibilities, and means and resources as are required to make the Local Bodies capable and efficient in local self-governance.
- Building and development of institutional mechanism and functional structure in Local Bodies capable of considering for local people and bearing responsibilities
- Devolution of powers to collect and mobilize such means and resources as are required to discharge the functions, duties, responsibility and accountability conferred to the Local Bodies.
- Having the Local Bodies oriented towards establishing the civil society based on democratic process, transparent practice, public accountability, and people's participation, in carrying out the functions devolved on them
- For the purpose of developing local leadership, arrangement of effective mechanism to make the Local Body accountable to the people in its own areas
- Encouraging the private sector to participative in local self-governance in the task of providing basic services for sustainable development

Source: Local Self-governance Act, 2055 (1999): An act made to provide for local self-governance, Law Book Management Board, 1999

Appendix-2

Powers, Functions and Responsibilities of Local Bodies

Village Development Committee	Municipality	District Development Committee
a) Agriculture	a) Finance	a) Agriculture
b) Rural water supply	b) Physical development	b) Rural water supply and settlement
c) Works and transport	c) Water resources, environment and sanitation	c) Hydropower
d) Education and sports	d) Education and sports	d) Works and transport
e) Irrigation, soil erosion and river control	e) Culture	e) Land reform and management
f) Physical development	f) Works and transport	f) Women's development and handicapped
g) Health services	g) Health services	g) Forest and environment
h) Forest and environment	h) Social welfare	h) Education and sports
i) Language and culture	i) Industry and tourism	i) Labor wage
j) Tourism and cottage industries	j) Approval of building design	j) Irrigation, soil erosion and river control
k) Miscellaneous (including bylaws)	k) Miscellaneous (including bylaws)	k) Information and communication
		l) Language and culture
		m) Cottage industries
		n) Health services
		o) Tourism
		p) Miscellaneous

Source: Local Self-governance Act, 2055 (1999): An act made to provide for local self-governance, Law Book Management Board

Appendix- 3

Acts Contradicting with the

Local Self-Governance Act, 2055 (LSGA, 1999)

1. Local Administration Act, 2028 (1971)
2. Film (Production, show and distribution) Act, 2026 (1969)
3. Sports Development Act, 2048 (1991)
4. Consumer Protection Act, 2054 (1997)
5. Statistics Act, 2015 (1958)
6. Construction Business Act, 2055 (1998)
7. Environment Protection Act, 2053 (1996)
8. Animal Health and Animal Service Act, 2055 (1998)
9. Animal Slaughterhouse and Meat Examination Act, 2055 (1998)
10. Disaster(Relief) act, 2039 (1982)
11. Local Bodies (Election Procedures) Act, 2048 (1991)
12. Public Roads Act, 2031 (1974)
13. Education Act, 2028 (1971)
14. Births, Death and other Personal Events (Registration) Act, 2033 (1969)
15. Land Revenue Act, 2034
16. Soils and watershed Conservation Act, 2039 (1982)
17. Mines and Minerals Act, 2042 (1985)
18. Solid Waste (Management and Resources Mobilization) Act, 2044 (1987)
19. Judicial Administration Act, 2048 (1991)
20. Water Resources Act, 2049 (1991)
21. Vehicles and Transport Management Act, 2049 (1992)
22. Forest Act, 2048 (1992)
23. Electricity Act, 2049 (1992)

Source: An assessment of the Implementation of the Tenth Plan (PRSP), Second Progress Report, On the road to Freedom from Poverty, National Planning Commission (2005:57) and Dahal et al (2001:59) Good Governance and Decentralization in Nepal, Centre for Governance and Development Studies, 2001