

## Support to constitution making and federalism

The Comprehensive Peace Accord foresees a restructuring of the state. Nepal was in the meantime declared a “federal democratic republic”, to end the monarchy and the unitary system of governance. Some of the goals Nepal is trying to achieve through the federalisation, according to the spirit of the CPA, are related a) to horizontal and vertical power sharing, b) to efforts to bring the state closer to the people, in terms of delivery as well as in terms of legitimation, c) to try to better cater to the diversity of Nepal, and d) to contribute to the nation building. In the meantime, strong identity based movements have come forward and the debate on federalism has been painted with yet another colour.

From the Swiss, SDC side we have had an enormous amount of requests, from all the relevant stakeholders in government, political parties and civil society as well as different identity and regional groups, to support the debate about Constitution Making with experiences sharing from the Swiss federal system as well as from other countries, to bring expertise and to help disseminate the basic concepts of federalism. Reacting to these demands, Switzerland is supporting the Constitution making process in various forms, in collaboration with Nepali experts and partners. Experiences on federalism are presented in such a form that opportunities and limits are indicated. It is for us very important always to stress that, a solution in your country will only make sense if a very much Nepali form is found. To re-organise a state is never an easy task. In this context, Switzerland is supporting the Nepal peace process, on demand, through various expert inputs and programme activities on different aspects of state restructuring and constitution making. Our support is not in favour of any particular federal system, nor do we have any intention to “export” the Swiss model of federalism.

One basic idea from the international experiences on federalism is that, there is *shared rule* on one hand, and *self rule* on the other hand. Both are complementary, and without accepting both, there will be no federal structure. This sounds simple, however, it is absolutely crucial for the understanding. Federalising in that sense is similar to “strongly” decentralising – like Nepal tried to decentralise in the 1990s. But a federal structure it is at the same time different from Decentralisation, in terms of legitimation and the source of the powers of the central level and the federal units.

### How the Swiss support Nepal’s constitution making process and the debate on federalism:

- **Working with key stakeholders:** Internal seminars and cross party workshops on various aspects constitution making, federalism and confidence building have been facilitated for quite some time, partly with the help of our partner organisation National Peace Campaign (NPC).
- **Dissemination and outreach:** We are holding workshops and seminars about federalism with all relevant stakeholders including government ministries, political party representatives various CA member groups, women’s groups, Dalits, Identity and regional groups (Madhesi, Tharus, Limbus etc.) on constitution making and federalism
- **“Local federalism” projects:** We are associated through funding and/or expertise in about 25 processes and events on federalism on district level in 2009. This type of capacity building exercises are complemented by supporting Radio programmes and similar activities
- **Special focus on SDC cluster districts:** A special focus with regard to the out of Kathmandu events is put on the SDC cluster districts, where a new programme on local federalism is started in 2009. This is done in partnership with ADDCN and NAVIN
- **Swiss experts inputs:** We work regularly with our Swiss expert on federalism, Dr. Nicole Toeppewien, who has written tailor made working papers on several key aspects of federalism like wealth sharing (natural resources etc), taxation, language, minority rights etc.). These papers have been widely used in since 2007 in numerous workshops and interaction programmes.

- **Study tours:** We have organised several study tours with leading representatives of political parties, government, academia and civil society to Switzerland, to study the Swiss federal system

- **Documentation and publication:** A publication "Nepal Building New Roads To Peace", 2007, is available which includes the women's charter as well as texts on federalism, democracy and the peace process in Nepal. Another publication on "Nepal: peace process and federalism" will be published in 2009 which includes many of the tailor made working papers produced by our Swiss and Nepali experts on constitution making, lessons learnt from federal structures world wide, and peace processes.

- **Contribution to the coordination of the technical support to the discussion about federalism:** SDC is one of the four co chairs of the group to ensure information sharing and coordination of the external inputs into the capacity building and dissemination of know how on federal structures, together with UNDP, the Forum of Federations and GTZ. Regular coordination meetings are organised and in May 2009 a common workshop organized on "Supporting Nepal's transformation into a federal state –current issues and planning for the near future"

### **The debate on federalism at the moment**

When observing the debate on federalism in Nepal, we note that, earlier it was more philosophical. Nowadays it has become very practical. Clearly many more key actors are better informed about the overall concepts and experiences of other countries. In the last few months we observed some kind of a *fear phase*: As it gets more practical, many stakeholders begin to discuss the issues even more in depth. More questions come to surface. This is quite natural in a change process. Also, at the moment we observe some kind of an *exposure phase*: Every group is now coming forward with its vision, or let's say with it's maximalistic approach. From what we guess and hope is that, later in the year 2009 the phase of making compromises might come, hopefully in time, to keep the timetable of the CA. Maybe it will be a good idea to make more simple decisions (decisions for which compromises are easier), early on. Boundaries and names of states/provinces might be of the most difficult ones. The functional issues like the ones on natural resources, tax allocation, languages etc. should be taken very seriously. The *local* level should not be forgotten, even though the focus of the public debate is at the moment more on *state/provincial* issues, and the *central* level.