



Proceedings Report

Economic Concerns in the Draft Constitution

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The release of the Constituent Assembly's first constitution draft has highlighted some fundamental issues including anti-liberalization tendencies and exclusion of the economy, among others, which are essential ingredients for development. The draft constitution appears to be regressive rather than progressive considering its divergence from the liberalization reforms initiated in the 1990's. Keeping in mind the strides towards development, it becomes imperative for the country to have a clear economic vision, something which the current draft sorely lacks. Some of the key issues in the draft, which could pose as bottlenecks towards growth and development, are discussed below.

Political Agenda

The abundance of left-wing political parties in Nepal favoring communism, along with the congress projecting themselves as socialists, led to the draft declaring Nepal as a socialist state. While Nepal has been described as a socialist country; the term however, is not defined clearly, which raises the question about the model of socialism the polity seeks to adopt, ranging from democratic socialism of the prosperous Nordic nations to that of North Korea.

Private Sector

One of the most highlighted aspects of this draft is the downward view of the private sector. While the draft talks about promoting as well as regulating cooperatives, there is only the mention of regulations in terms of the private sector. This ignores the fact that cooperatives and the public sector have failed in the past, and propagation of such institutions is therefore anti-reformatory and promotes a culture of cartels and unregulated markets. The draft also blindsides the potential contributions of the private sector towards the country's growth as highlighted by cases around the world.

From the perspective of private sector, the right to do business, the right not to be nationalized and the right to earn profit is vital for it to flourish. However, in the context of Nepal,

profiteering is rather seen through skewed lenses as opposed to fuel for economic development, which could be realized through incentivizing private sector development. While distributive economics is being promoted by left oriented political parties, whereby revenue is collected from the privileged classes (private sector) for distribution among the public, the feasibility of such strategies are questionable as the cost of doing business escalates for the private sector thereby de-incentivizing its development. Furthermore, the latent outcome of such strategies has a higher possibility to promote mal-practice such that business owners will be more inclined to reduce their cost of doing business by garnering political support to gain access to larger market shares.

Tax System

Another key issue from a business perspective is the tax system. The draft clearly mentions the authority for both the state as well as the central government to collect income tax. This should not be the case as, more often than not, the decrease in real income hampers productivity. Meanwhile, the draft is still unclear about how work distribution will take place at the state, central and local level to promote efficiency and autonomy, an important factor for the growth of any economy.

Foreign Investment

The new draft of the Foreign Direct Investment (FDI) policy indicates a negative attitude towards trade and foreign investment, with FDI only being limited to the infrastructural sector. There is no mention of any reforms or incentives to sectors such as hydropower, which would have been more forthcoming.

Discouragement of International Business Practices

The emphasis on nationalism in the new draft indicates the continued usage of Nepali language, calendar and fiscal year in official matters or otherwise. Though seen as a mechanism to hold onto traditions in a rapidly modernizing environment, such commitment is bound to make integration with the global business world difficult. With regards to this, bi-lingual or tri-lingual business practices can be adopted, which unfortunately the draft fails to acknowledge.

Private Property

The draft fails to assure the land rights of its citizens in regards to protection of their private property from expropriation. Additionally, there is no mention of compensation following expropriation.

Steering away from Liberalization

Drifting away from the liberalization reforms of the 1990s, which facilitated private sector led growth, the path Nepal aims to head towards appears tragically misleading. In current times where socialism-oriented countries (China, Cuba and the like) are gradually shifting towards market-orientation, the real-world evidence of how liberalization and opening up of the economy have improved growth has been blatantly ignored by the draft. After 7 years of delay, the

development of the constitution is even more important as it represents a new Nepal, one that is moving away from the unitary system to a decentralized federal system of governance. However, the document fails to take a clear stance on the jurisdictions of the state and the nation. If the constitution states the guarantee of economic rights to its people then the issues we have listed may well be discarded.

Outlook

The proposed constitution is too long and should be as short and direct as possible. Inclusion of statements that could create conflict among the different groups should not be presented. While the draft is very inclined to talk about rights, an overarching statement about the intention to protect all fundamental rights would have sufficed. Similarly, there are many concerns and issues highlighted under laws and regulations that could have been avoided. The constitution therefore reads as a mere combination of the demands of various groups, and not as a central law that helps guide a country towards prosperity. At its very core, the draft lacks a coherent vision for country. The governance aspect of the constitution should therefore be realized and brought forth rather than listing every right and freedom to different groups of individuals.

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