

# **Expected Model & Process of Inclusive Democracy in Nepal**

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### **Abstract**

This paper gives a picture of the forest of inclusive democracy in Nepal, which is in the preliminary process of making. The paper begins with an overview of what went wrong in the past and the present in a multi-caste/ethnic, multi-lingual, multi-religious and multi-cultural country, Nepal, as perceived by excluded groups/communities. It identifies that the main socio-cultural-political fault line in the past and the present, irrespective of political systems, is the ideology, policy and practice of Bahunbad (Brahmanism). The main playing fields of Bahunbad discussed in the paper include caste/ethnicity, language, religion, culture, gender and region. This paper analyzes demands made by different excluded groups/communities, including indigenous nationalities, Dalit, Madhesi Hindus and Muslims, women, mother tongue speakers and non-Hindu religious groups, to create a just, equitable and democratic Nepalese society and also to bring positive peace in Nepal.

This paper analyzes in detail mechanisms to include excluded groups/communities with focus on interconnection of federalism, proportional representation, autonomy based on caste/ethnicity, language and region and special measures or affirmative action or positive discrimination—remedial and preferential. Grassroots democracy as practiced by some indigenous nationalities is also discussed. This paper makes an attempt to clarify that these mechanisms neither results in nor encourage disintegration of the country and communal violence, as perceived by Bahunbadis. On the contrary, these are indeed desperately needed to avoid any such misfortune in the days to come by maintaining minimal unity in highly diversified society. Also, the means to this end is also discussed with suggestion to trash reformist agenda by advocating for rights-based movement blended with revolutionary or radical transformation through roundtable conference, right to self-determination, public propositions and referendum and constituent assembly to re-write the constitution and to practice inclusive democracy.

This paper concludes with a message that any other model of democracy, except inclusive, in Nepal would continue to breed insurgency based on caste/ethnicity, language, religion and region and the best way to avoid them is inclusive democracy as suggested.

# **Expected Model & Process of Inclusive Democracy in Nepal**

## **INTRODUCTION**

Claim of democracy by any type of political regime does not make it democratic. Similarly, claim of being democrat by anyone does not make him/her democrat. In Nepal both partyless Panchayat political system and multi-party political system have claimed themselves to be democratic. In practice, however, both were exclusionary political system. If we use any principle of democracy as a litmus test in Nepal, it is not difficult to any one to see that Nepal has no democracy since 1769. Whatever "democracy we had during 1959-60 and from 1990-2002 was "exclusionary democracy." Since October 4, 2002 we have no democracy as we are governed by "direct rule" of the King. Currently democracy is at "ground zero" level. In the context of the proposed dialogue between His Majesty's Government of Nepal and Maoist insurgents, it is a right time to engage in a discourse on "expected model of democracy" by all concerned groups.

I have developed this expected model and process of inclusive democracy by putting together available information based on my understanding of aspirations of leaders, followers, activists and scholars belonging to different excluded caste, ethnicity, language, religion, culture, region and sex and also on their aspirations made public through various media, including books, newspapers, journals, magazines, radio and television programs, press release, pamphlets and public speeches. Insights gained in formal and informal interaction and experience of other countries as revealed in the books and articles also have been very useful in crystallizing the model and process of inclusive democracy in Nepal.

This paper gives 'a picture of the forest' of inclusive democracy in Nepal, which is in the preliminary process of the making. I begin the paper with clarification of key concepts, followed by an overview of the context of inclusive democracy in Nepal with focus on what went wrong in the past, playing fields of Bahunbad and demands made by different excluded groups. Then, I will discuss in detail and analyze the expected model and process of inclusive democracy. I conclude this paper with a message that any other model of democracy, except inclusive, in Nepal would continue to breed insurgency based on caste/ethnicity, language, religion and region and the best way to avoid them is inclusive democracy as suggested.

## KEY CONCEPTS

I will first clarify two key concepts: "democracy" and "inclusive democracy."

### Concept of "democracy"

"Democracy" means different things to different countries, different scholars, different groups and different individuals. Beetham *et al.* (2002:11) write,

These are the principles that democrats in all times and places have struggled for:

- to make popular control over public decisions both more effective and more inclusive;
- to remove an elite monopoly over decision-making and its benefits; and
- to overcome obstacles, such as those of gender, ethnicity, religion, language, class, wealth, etc., to the equal exercise of citizenship rights.

Democracy is thus not an all-or-nothing affair, but a matter of degree – of the degree to which the people can exercise a controlling influence over public policy and policy-makers, enjoy equal treatment at their hands, and have their voices heard equally.

Drawing ideas from Arend Lijphart, Wolf Linder (1998:168) has cited nine clusters of democratic regimes: (1) majoritarian federalist structure and political process, (2) majoritarian federalist structure with intermediate political process, (3) majoritarian federalist structure with consensual political process, (4) intermediate federalist structure with majoritarian political process, (5) intermediate federalist structure with intermediate political process, (6) intermediate federalist structure with consensual political process, (7) consensual federalist structure with majoritarian political process, (8) consensual federalist structure with intermediate political process, and (9) consensual federalist structure with consensual political process. Lijphart dichotomize between the Majoritarian (Westminister) model and the Consensus model of democracy (Linder 1998:166-167).

Political sociologist David Held (1987) has identified nine models of democracy: (1) classical democracy, (2) protective democracy, (3) developmental democracy, (4) direct democracy, (5) competitive elitist democracy, (6) Pluralism, (7) legal democracy, (8) participatory democracy and (9) democratic autonomy.

I define "democracy" as a political process in which people are fully sovereign and diverse groups of people cooperate among themselves in a participatory way for their common good. Thus, democracy means elimination of hegemony or domination of caste, language, religion, culture, sex, region and class. Also, it is not a melting pot and over centralization of power and authority. On the contrary it is a respect towards pluralism or diversity and decentralization or devolution of power and authority through ethnic autonomy and right to self-determination.

### **Concept of 'inclusive democracy'**

Debate on 'inclusive democracy' is one of the recent phenomena. Takis Fotopoulos finds democracy is incompatible with concentration of power. He writes, "Inclusive democracy is a new conception of democracy, which, using as a starting point the classical definition of it, expresses democracy in terms of direct political democracy, economic democracy (beyond the confines of the market economy and state planning), as well as democracy in the social realm and ecological democracy" (Fotopoulos 2001). He further writes, "an inclusive democracy, which involves the equal distribution of power at all levels, is seen not as a utopia (in the negative sense of the word) but as perhaps the only way out of the present crisis." According to the Human Development Report 2000, the concept of "inclusive democracy" allows distribution of political power to minorities and guarantees full participation by all citizens. Winston Churchill's widely quoted saying, "Government of the people, by the people, for the people" itself is a definition of inclusive democracy if we focus on the word by rather than of and for. According to Fotopoulos (2001) inclusive democracy "involves the equal distribution of power at all levels, is seen not as a utopia (in the negative sense of the word) but as perhaps the only way out of the present crisis." In the context of Nepal, inclusive democracy means sharing of power and authority by all caste/ethnic, gender, linguistic, religious, cultural and regional groups through caste/ethnic, linguistic and regional autonomy and sub-autonomy, proportional representation and special measures under a federal structure of government by using the processes of round table conference, right to self-determination, referendum and constituent assembly.

### **CONTEXT OF A NEED FOR INCLUSIVE DEMOCRACY**

In this section, I will first give an overview of what went wrong in the past and the present in a multi-caste/ethnic, multi-lingual, multi-religious and multi-cultural country, Nepal, as perceived by excluded groups/communities. Then I will discuss the main playing fields of Bahunbad and list the demands made by different excluded groups/communities.

#### **Overview of what went wrong in the past and the present**

There has always been 'a tug of war' between 'unity' and 'diversity' at different levels—global to local or vice versa. At the global level, the process of colonization and modernization in the past and the current on-going process globalization are indeed part of the process of homogenization putting the West at the center. It continues to be well entrenched in the forts of social sciences and developmental practices. However, the wave of post-modernism and mounting assertion for respect of diversity has now challenged and is in the process of de-construction such old paradigm. Rajendra Pradhan has noted, "One global tendency has been for nation states to move towards homogeneity of cultures and the erasure of differences, either by assimilation into the dominant culture (the 'melting-pot' of the United States), or 'disappearing' the minority community through 'ethnic cleansing' (Nazi Germany, or the Hutu-Tutsi conflict of Rwanda), or partition

based on differences, whether of religion (India-Pakistan) or ethnicity (the Balkans)" (Pradhan 2003:18). In the case of Nepal, intensifying processes of westernization and marketization have marginalized indigenous and traditional institutions, culture and practices.

The main socio-cultural-political fault line in the past and the present, irrespective of political systems, is the ideology, policy and practice of Bahunbad (Brahmanism). I define Bahunbad as an ideology, policy and practice of domination of one caste (Bahun-Chhetri), one religion (Hindu), one language (Khasa-Nepali), one culture (Hindu), one region (the Kathmandu Valley), and one sex (male) over others. Other noteworthy fault lines are as follows:

- The stated policy of King Prithvinarayan Shaha to make Nepal a true "Hindustan" ("Hindu's country");
- Restructuring of four fold caste hierarchy and inclusion of indigenous nationalities third in the hierarchy as *Matawali* ("liquor drinking caste") by the National Code of 1854;
- Campaign of domination of one caste (Bahun-Chhetri), one religion (Hindu), one culture (Hindu), one language (Khasa-Nepali) and one dress (Daura-Suruwal and Sari) during 30 years of partyless Panchayat rule; and
- Declaration of the Hindu State and Khasa-Nepali as the only official language of Nepal by the "democratic" constitution of the Kingdom of Nepal promulgated in 1990, and more recently Supreme Court's decision that mother tongues can not be used as an additional official language by the local bodies, namely District Development Committees (DDCs), municipalities and Village Development Committees (VDCs).

### **The main playing fields of Bahunbad**

The main playing fields of Bahunbad include caste/ethnicity, language, religion, culture, gender and region.

**Indigenous Nationalities** are against Bahunism (Brahmanism), Hinduization or Nepalization or melting pot or homogenization, domination of Hindu religion, imposition of Nepali as the only official language and lingua franca, displacement from traditional homeland, under-representation in decision-making positions in government—executive, legislature and judiciary, marginalization in the public sphere, and doctored census data.

**Dalits** are against Brahmanism, untouchability or restriction in public places or denial or prohibition of certain acts and practices, access to common property resources, services, entry, participation in socio-cultural sphere; discrimination in occupations, educational institutions, political rights, government policies and programs, donor's supported development programs; forced labor; domination; atrocities; overburden of Dalit women on the bases of caste and gender; and doctored census data.

**Mother tongue** speakers are against unequal constitutional provisions, discrimination between nation's language (Khasa/Nepali) and national languages (mother tongues), restrictive clause concerning the use of mother tongues in education beyond grade five, compulsory Sanskrit curriculum at the schools, transmission of news in Sanskrit language, Sanskrit university, Supreme Court's ruling prohibiting the use of mother tongues at the local bodies, and doctored census data.

**Non-Hindus** are against Hinduism as the state religion, Hindu's view that Buddhism is a part of Hinduism and Buddha is the ninth incarnation of Lord Vishnu, Buddhism belongs of *Omkar* family, recognition of the Siva Sena ("Lord Siva's Army") as a registered political party, direct or indirect harassment against non-Hindus, and doctored census data.

**Madhesis** are against Hill people's domination, Khasa-Brahmanism, hegemony of Nepali language, discrimination from army, mandatory national uniform, and the state's treatment as second-class citizen.

**Women** are against All forms of gender-based discrimination, patriarchy, male chauvinism, violence against girl/women and media's portrayal of women as a commodity.

#### **Demands made by different excluded groups/communities**

The demands made by different excluded groups/communities, including indigenous nationalities, Dalit, Madhesi Hindus and Muslims, women, mother tongue speakers and non-Hindu religious groups, are primarily aimed to create a just, equitable and democratic Nepalese society and also to bring positive peace in Nepal (for detail about the nature and forms of racial discrimination see Malla and Biswakarma 2002). The main demands of different groups are as follows:

**Indigenous nationalities** have demanded for creation of society as a "salad bowl" or "rainbow culture," secular state, equal language status, right to self-determination or ethnic autonomy or proportional representation or federal government based on ethnicity, language and region, right to land, forest, water and pasture, affirmative action or positive discrimination (both remedial and preferential), transformation of the Upper House (the National Assembly) as the House of the Nationalities, native title to land resources, de-politicization of the Foundation for Development of Indigenous Nationalities, protection and promotion of intangible cultural heritage, customary rights, mainstreaming indigenous nationalities and other minorities, and collection of accurate census data.

**Dalits** have demanded for elimination of practices of all forms of caste-based untouchability, severe punishment to those who practice caste-based untouchability, secular state, free access to public space, affirmative action or positive discrimination (both remedial and preferential) in political positions, education, employment; present Dalit Bill in the Parliament; modernization of traditional occupations; and collection of accurate census data.

**Mother tongue** speakers have demanded for 3 language policy (mother tongue, any other mother tongue and any international language), constitutional and legal equality, unrestricted use in government offices, courts, educational institutions, media and local bodies, implementation of the recommendations made by the National Language Policy Recommendation Commission headed by Poet Bairagi Kainla, endorsement of the *National Declaration of Mother Tongue Speakers, 2001*, and collection of accurate true census data.

**Non-Hindus** have demanded for separate identity of religions, religious harmony, secularism, constitutional and legal equality, affirmative action or positive discrimination (both remedial and preferential), and collection of accurate census data.

**Madhesis** have demanded for distribution of citizenship certificates to those Madhesis who have been deprived from it, secular state, regional federalism, employment opportunity in Nepal army, equality of languages, and affirmative action or positive discrimination (both remedial and preferential).

**Women** have demanded for gender equity and equality, sincere implementation of CEDAW, equal rights on parental property, right to one's own body, affirmative action or positive discrimination (both remedial and preferential), access to and control over, and benefits from, resources, stop violence against women, representation in decision-making positions, and collection of gender disaggregated data.

All these demands are real demands made by organized movements of respective groups. Therefore, a million dollar question is how to fulfill these aspirations in a peaceful and amicable way.

John McGarry and Brendan O'Leary (1993) have suggested 'hegemonic control' and partition and/or secession (self-determination) as two ways to eliminate or manage ethnic differences. It is for sure that neither 'hegemonic control' of one caste, language, religion, culture, region and sex group can no longer work nor self-determination with partition and/or secession would work in Nepal. Sammy Smooha and Theodor Hanf (1992) have suggested four strategies of conflict-regulations, namely, (1) partition, (2) ethnic democracy, (3) consociational democracy, and (4) liberal democracy. Out of these four strategies, ethnic democracy and consociational democracy could be considered closer to inclusive democracy. Consensus model of democracy suggested by Arend Lijphart is even closer to inclusive democracy.

## **TEXT OF EXPECTED MODEL OF INCLUSIVE DEMOCRACY**

Jurgen Habermas, "the last philosopher of the twentieth century," has aptly noted that life-world creates system but eventually system colonizes life-world. Hence the fundamental question is how to make system useful to life-world? If we look at Nepal from Habermasian perspective, it becomes clear that the system-political, social and



economic--of the past, including 104-years of Rana oligarchy, 30-year old autocratic partyless Panchayat and 12-year old "multi-party political system" indeed colonized Nepalese life world. In perpetuating internal colonialism by the dominant caste, language, religion, region and gender group, it was not only the nexus of "knowledge and interest," following Jurgen Habermas (1971), but also the nexus of "power and knowledge," following Michel Foucault (1977), is also equally responsible. There is indeed a strong interconnection of knowledge, interest and power. Therefore, there is need to turn around the existing dominant nexus of knowledge, interest and power.

Any new constitution to be effective should fulfill expectations of three groups:

1. Expectation of organized groups: Most of the excluded groups such as women, Dalits, Madhesi, indigenous nationalities, "national language" speakers, non-Hindus are organized in different ways. These groups are organized in two main fronts, one in the social movement front and other in radical front. Organizations such as women's pressure group, Dalit NGO Federation, Nepal Federation of Nationalities, Language Rights Joint Struggle Committee, Nepal, are in the social movement front. Madhesi Liberation Front, Dalit Liberation Front, Tharuwan Liberation Front, Tamang Liberation Front, Khambuan Liberation Front, Limbuan Liberation front, All Nepal Revolutionary Women's Organization, etc. are in the "radical" front. The objectives and demands of both fronts are identical but the only difference is the use of means to achieve their goals. Those who are in the movement front seek peaceful, though frustratingly slow, means, the latter use violence and counter-violence and other radical means to achieve their goals. Any new constitution must satisfy demands of these organized groups.
2. Expectation of common people: Common Nepalese people, who are not part of the public, also do have their expectation from the State depending on their own every-day-life-experience. They generally want security of food, clothing and shelter, employment and health. They, however, are neither organized nor in a position to use mass media to articulate their demands.
3. Expectation of international community as expressed in international instruments of human rights: There are scores of international instruments of human rights accepted by the global community. Nepal is a party to some international instruments and Nepal has yet to ratify some instruments. International community expects that Nepal would sincerely comply with ratified instruments and embrace other instruments as well. This means, any new constitution should be compatible with whatever commitments Nepal has made in front of the international community.

### **Detail mechanisms to include excluded groups/communities**

The constellation of the following eight elements is the expected model of inclusive democracy in Nepal at this historical juncture.

## I. Structural Elements

1. Federalism
2. Ethnic, linguistic and regional autonomy and sub-autonomy within autonomy
3. Proportional representation
4. Special Measures or Affirmative Action

## II. Process related Elements

5. Round Table Conference
6. Right to self-determination
7. Referendum
8. Constituent Assembly

None of the seven elements should be isolated in Nepal; if so, the system may be crippled or paralyzed depending on how many or which of them are isolated. Also, there are merits and demerits of each of these eight elements. If all these elements are taken as an organic whole, then only it would do justice to full realization of inclusive democracy in Nepal by hitherto excluded groups.

## I. Structural Elements

### i. Federalism

According to Harris & Reilly and Elazar, "Federalism is an arrangement under which power is devolved equally to all regions, and in which each region maintains an identical relationship to the central government" (Quoted by Gunther Bachler 2003:13). After the people's movement of 1990, out of 44 political parties registered with the Election Commission, three of them demanded for federalism. The Nepal Rastriya Jana-Jati Party demanded federalism based on ethnicity, the Sadvanaban Party for federalism with the autonomy of the Tarai region, and the Nepal Rastriya Jana Mukti Morcha (now Party) for administrative federalism (Bhattachan 1993). Nepal Federation of Nationalities (NEFEN) has been demanding for right to self-determination and ethnic autonomy since its establishment in 1990. The Nepal Communist Party (Maoist) has made it public that they are in favor of semi-federalism.

Nepal can learn lesson from experience of federalism by many countries, including Switzerland. Although Switzerland was the only model prescribed by the Rana planner Mr. Bijaya Shamsher back in the forties, Nepalese planners, political leaders and scholars never paid attention to his recommendation. Federalism somehow did not capture the interest of Nepalese and foreign scholars until Govinda Neupane (2000) broke the ice, followed by Nilam Shekhar Adhikari (2000) and Mahendra Lawoti (2002) by writing their Master's/doctoral dissertation focusing on a need of federalism as the most suitable form of consensual democracy in Nepal. Among the political scientists Krishna Hachhethu has written a paper on federalism but his ideas on it are still elementary. He accepts that federalism in Nepal is possible on two grounds, one heterogeneous character of national population and two, if heterogeneous, settlement pattern of diverse groups: mixed or in separate territory (Hachhethu 2003:2). He does not see a possibility of

federalism in Nepal on the third factor, as there appears to be 'a direct correlations between large size and federal structure' (Hachhethu 2003:3). I believe that although the physical size of Nepal may be small but in terms of socio-cultural diversity it is not small; it is huge indeed. And, hence, federalism is possible on this count as well.

According to Yash Ghai, "Classical federalism, where all regions have equal powers, may not be sufficiently sensitive to the peculiar cultural and other needs of a particular community, which require a greater measure of self-government" (Ghai 2000:8-9). It is because of this reason federalism should be tied up with autonomy-ethnic, linguistic and regional.

Nicholas Haysom (2003:15) has aptly noted, "Federalism also allows for government closer to the people, greater local control over decisions which impact on citizen's daily lives." He has further noted, "It allows for policies to be adapted to the particularities, including cultural, demographic and political particularities, of the region" (Haysom 2003:15). Wolf Lander (2003) is of the view that federalism is an answer to multicultural conflict as it separates "pike and trout in the pond" and linguistic, religious, cultural and other minorities can hold political power within sub-national unit (Lander 2003:2). Bachler (2003:13) is of the view that "Federalism can serve consociational as well as integrative purposes."

#### *Levels of Federalism*

**Autonomous nations and regions** should be the backbone of federalism. They must have their own constitution, legislative body, executive and judiciary and implement their own laws and also the federal laws. The names and modalities of these bodies may be different in different autonomous nations and regions depending on their history and culture. Each autonomous nation and region may develop local bodies based on their history, culture and tradition. For example, the Limbus, Khambus, Sunuwars and Yakhas have a tradition of "**Thum**". Similarly, the Syangtans of Mustang have a tradition of **Posang** (see Box 1). Indigenous nationalities had exercised autonomy in the past and some of their traditional organizations related to polity, economy (including capital and labor), judiciary, natural resource management, etc. are still continuing (for detail see Bhattachan 2000). They, therefore, can learn from their own experience.

**Federal Nation-State** should comprise of the **House of Nationalities** with representation of the autonomous nations and regions. The number depends upon the outcome of exercise of right to self-determination. The speaker of the House should be rotated in the alphabetical order of the names of autonomous nations and regions.

**Federal Judiciary** should comprise of **Customary Court** and **Non-Customary Court**. Judges from each language groups should be represented in the customary court. Many language speakers do not have individuals who have qualification for non-customary judge. In such cases, special efforts should be done to provide education and training from among such groups.

**Box 1.****Posang: Grass Root Democracy of the Syangtan**

Posang is one of the best example of democracy voluntarily practiced by indigenous peoples is that of the Syangtan (*Panch Gaule*), one of 61 indigenous nationalities of Nepal. They live in the southern part, few hundred meters away at the south-west of the *Jhongsamba* ("Jomsom") airport, of the Mustang District. The total number of households and population has always been very low, that is about 100 households. Each and every Syangtan household automatically becomes member of the Village Assembly called *Yhul Jhomba*. The whole community is divided in two *phajan* or groups, the big group (*phajan thyowa*) and (*phajan cyanpa*), with different clans. The Village Assembly meets every two years. Each group meets in separate but adjoining courtyards. Each and every household must take responsibility of headmen sooner or later. Aliens or non-Syangtan people may reside in the village but they can not take part in the Village Assembly.

During the Village Assembly, each group elects headman for the other group from among the households who have volunteered to take the responsibility for the next two years. As stones are used as ballots, the candidates who receive maximum number of stones are declared elected. The announcement is made during the after lunch plenary. Between the two headmen elected, whoever is elder becomes *thyumi thyowa* (senior headman) and junior *thyumi cyangpa* (junior headman). Headmen take oath at the end of the tenure. According to Vinding (1998:255), "The outgoing headmen take an oath (*kyang chinpa*) by placing a hand on a religious text and promising that they have not done anything wrong during their tenure." During the plenary the outgoing headmen are kept locked in adjoining rooms and public auditing is done by the plenary. If the members have any complain against wrong doings by the headmen, these issues would be thoroughly discussed and if found guilty they determine punishment accordingly. Then only the headmen are brought back to plenary, charged with the wrong doings, declared punishments and they are given an opportunity to defend themselves. If the plenary should still find them guilty, they would be punished—theoretically it may be as extreme as a death punishment, that is, put in a sack and throw in the nearby Kaligandaki river.

The Assembly also meets every year to appoint village workers and every three-year to take Census of the community. The community members are divided in three groups based on age groups. The headmen along with village workers are responsible for everything of the community, including agriculture, irrigation, pasture, food security, animal husbandry, marriage, festivals, worship, justice, and so on.

During the autocratic partyless Panchayat rule, the imposition of local bodies such as the Village Panchayat and after the re-establishment of multi-party political system in 1990 the Village development Committee (VDC), traditional voluntary organizations such as *Posang* has been marginalized.

Source: Krishna B. Bhattachan (2002:28)

**Federal Government** retains control over army, international relations and monetary policies. The Head of the government should be on rotational basis.

## ii. **Autonomy**

The concept of autonomy is not a new concept in Nepal. Before the territorial unification of Nepal in 1769, Nepal had a long history of ups and down of federalism and ethnic autonomy. Even King Prithvinarayan Shaha had given autonomy to the Limbus of eastern Nepal. The demand for regional autonomy started immediately after the fall of the oligarchic Rana rule in 1951. One of the three demands of the Nepal Tarai Congress formed in 1951 was establishment of an autonomous Tarai region (Gaize 1975:109). Movements of Indigenous Nationalities, such as the Limbuan Liberation Front, have been demanding for ethnic autonomy even during the partyless Panchyat period.

Out of nine 'experience of autonomy' listed by Yas Ghai (2000:14-24), possibility of regime change, undisputable sovereignty, and existence of several ethnic groups rather than two makes the prospect of autonomy very bright in Nepal. What is required now is a careful design of institutional structures that is essential for the success of autonomy. All those organized groups who demand for autonomy, strongly believe one of the nine 'experience of autonomy,' which states "autonomy does not promote secession; on the contrary, true autonomy prevents secession" (Ghai 2000:14-24).

Different political parties and different scholars have proposed for different numbers of autonomous regions. Nepal Sadvabana Party and Nepali Congress leader Dhundi Raj Shastri have proposed five different regions each, scholar Govinda Neupane proposed 11 regions, the Nepal Jana-Jati Party proposed 12 regions and political scientist Mahendra Lawoti proposed 13 regions, and Dr. Harka Gurung proposed 25 regions (Table 1). All these proposed regions may have merit of its own but in terms of rising aspirations of different caste, ethnic, language, religious, cultural and regional groups, such divisions would neither help to fulfill it nor prevent future conflicts based on ethnicity, language, religion and region. Also, such pre-determined regions would deprive different groups to enjoy their right to self-determination.

Given the political economic and socio-cultural history of Nepal, the only realistic basis for autonomy and sub-autonomy is multi-pronged approaches. This means, autonomy and sub-autonomy within autonomy should be granted primarily on three criteria:

1. Ethnic: This criterion should be applied to all 59 indigenous nationalities.
2. Linguistic: This criterion should be applied to the Hindu Madhesi and Muslims in the Terai region.
3. Regional: This criterion should be applied to Hill Hindu castes.

| Table 1. Autonomous regions proposed by political parties and Nepalese scholars  |                |  |                |  |
|--|----------------|--|----------------|--|
| <b>NepalJanajati Party:</b><br>1. Khasan<br>2. Jadan<br>3. Magarat<br>4. Tamuan<br>5. Tambasaling<br>6. Nepal<br>7. Khambuan<br>8. Limbuan<br>9. Kochila<br>10. Maithil<br>11. Bhojpuri, and<br>12. Awadhi |                | <b>Govinda Neupane:</b><br>1. Kirata region,<br>2. Bijayapur,<br>3. Mithila,<br>4. Tambasaling,<br>5. Nepa.,<br>6. Lumbini region,<br>7. Tamumagarat,<br>8. Kapilvastu,<br>9. Eastern Khasan,<br>10. Central Khasan, and<br>11. Western Khasan |                | <b>Mahendra Lawoti:</b><br>1. Limbuwan<br>2. Khambuwan<br>3. Kochila<br>4. Mithila<br>5. Lumbini<br>6. Kapilbastu/Abadh<br>7. Nepa<br>8. Tambasaling<br>9. Tamuwan<br>10. Magarant<br>11. East Khasan<br>12. West Khasan<br>13. Tharuwan |
| <b>Nepal Sadvabana Party:</b><br>1. Eastern Hill region<br>2. Central Hill region<br>3. Western Hill region<br>4. Eastern Tarai, and<br>5. Western Tarai   |                | <b>Nepal Janamukti Party:</b><br>Administrative federalism<br>(number of regions not specified)  |                | <b>Dhundi Raj Shastri, Nepali Congress leader:</b><br>1. Eastern region<br>2. Central region<br>3. Western region<br>4. Mid-western region, and<br>5. Far-western region   |
| <b>Dr. Harka Gurung:</b>   |                |  |                |  |
| 1. Byasrishi   | 6. Babai       | 11. Srinigar   | 16. Rapti      | 21. Chaudandi  |
| 2. Saipal  | 7. Bheree      | 12. Annapurna  | 17. Simara     | 22. Arun   |
| 3. Malika  | 8. Swargadwari | 13. Manasulu   | 18. Sailung    | 23. Bijayapur  |
| 4. Mohana  | 9. Dhaulagiri  | 14. Trishuli   | 19. Kamala     | 24. Tamor  |
| 5. Karnali   | 10. Ridi       | 15. Kathamndu  | 20. Sagarmatha | 25. Kankai   |

If we apply these three criteria, the expected picture of autonomy in four eco-regions would be as follows:

I. *Mountain*: Autonomy in the mountain must be given on the following way:

1. Autonomy to indigenous nationalities: Currently there are 18 indigenous nationalities. Some of them have very small population and some have large population. In some geographical areas, many indigenous nationalities live close by and in some they live in isolation.

II. *Hill*: Autonomy in the Hills must be given in the following ways:

1. Autonomy to 24 indigenous nationalities; and
2. Regional autonomy in the far western and some parts of mid western Hill regions, which are inhabited primarily by Hindu "high castes" and Dalits.

III. *Inner Terai*: Autonomy in Madhes could be given in the following ways:

1. Autonomy to 7 indigenous nationalities.

IV. *Madhes*: Autonomy in Madhes could be given in the following ways:

1. Autonomy to 10 Madhesi indigenous nationalities;
2. Autonomy to three linguistic groups: Maithil, Awadhi and Bhojpuri and Sub-autonomy to "high castes" and "Dalits"; and
3. Autonomy to Muslims.

Here it should be noted that the fear of merger of Madhesi autonomous region with India is baseless for two reasons: one, Madhesis fear more from Indian migrants as they compete with their scarce resources, including land and economic opportunities, including employment, and two,

The actual number of autonomous and sub-autonomous nations in the three eco-regions cannot be pre-decided. It may be decided only after the exercise of right to self-determination by respective caste, ethnic, language and regional groups. Many indigenous nationalities, linguistic and regional groups would opt for autonomy and there may be some opting for either sub-autonomy or staying with the federal government. Therefore, the actual number of autonomous nations and regions may clearly emerge only after the exercise of right to self-determination.

The main content of autonomy like elsewhere should be as follows (for detail see Hannum 1990:458-468):

1. *Land rights*: All indigenous nationalities should be granted their rights to their traditional "homeland" in their autonomous and/or sub-autonomous regions as it guarantees "two fundamental human needs, identity and security" (Hannum 1990:464). Such rights should be granted to other autonomous regions also.
2. *Control over natural resources*: Autonomous nations and regions should have full control over natural resources, including forest, water, pasture and mines.
3. *Creation of Executive, Legislative and Judiciary*: Autonomous nations and regions should create their own executive, legislative and judiciary. There should be no intervention from the federal government.
4. *Use of Language*: All languages spoken within the autonomous or sub-autonomous nations and regions should have equal status of official languages, of medium of instruction in schools and colleges, and of print and electronic media. Lingua franca should be by choice of the people than by imposition.

### **iii. Proportional representation**

According to Wolf Lander, Proportional representation "is a universal key to power-sharing in a double sense: it opens many doors to political participation, and it can be used by new groups arising from new cleavages."

The guiding criteria for proportional representation in all public offices should be as follows:

1. Gender,
2. Caste and ethnicity,
3. Region,
4. Language,
5. Religion, and
6. Political parties.

The past census data are "false" or "manufactured" numbers with loaded interest of the dominant caste, language, religion, region, sex and culture group. In order to do justice to different groups, fresh census should be taken with focus on generating truthful census data on these five criteria. For this, representation of all groups and sub-groups should be made right from the policy making bodies at the Central Bureau of Statistics, including its technical committee to enumerators and their trainers.

In the case of merger of several castes or indigenous nationalities or language groups or in a region with mixed groups, proportional representation should be practiced.

#### **iv. Special Measures**

Any cautious design of federal structure, autonomy, and proportional representation may not do full justice to some large or small groups. For substantive equality and equity both the federal government and autonomous regions should design affirmative action policy. Such policy should be partly remedial and partly preferential. In remedial affirmative action, the identified groups should be given special training so as make them able to compete with others in some selected fields. In other fields, competition should be done within the group itself. Special measures may be required in political representation, employment, education and housing (see Glazer 1987, for detail about affirmative action practiced in the US).

The following groups need special measures or affirmative action in political representation, employment, education and housing should be as follows:

1. Gender,
2. Caste and ethnicity,
3. Region,
4. Language, and
5. Religion.

## **II. Process related Elements**

### **i. Round Table Conference**

All organized groups and the rulers have never come together in a round table to be familiar with each other's concerns and aspirations. Also, different organized groups, including political parties, organizations of women, Dalit, Madhesi, indigenous



nationalities, language and religion, and other civil society organizations, human rights organizations, have also not come together to understand each other's aspirations. The demand of the Maoist insurgents that after the cease-fire, round table conference should be organized is very timely and sensible to figure out the common and different aspirations of different organized groups. Differences can be ironed out through referendum, constituent assembly, right to self-determination and federalism. Round table conference should be organized at three levels:

1. Grassroots or local or community level,
2. Regional level, and
3. National level.

## **ii. Right to self-determination**

Autonomy and sub-autonomy based on ethnicity, language and region is crucial structural element, which should be decided through right to self-determination.

Article 1 of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights state, "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." As Nepal has ratified both conventions unconditionally, Nepal has international obligation to fulfill it.

Whether the term "People[s]" or "Self" refers to 'state,' 'representative government,' 'colonized peoples,' 'indigenous peoples,' 'ethnic groups,' 'minorities,' and 'group of individuals' have been in debates in international community for a long time, in Nepal 'indigenous nationalities' and other minorities such as Dalits, Madhesi and some regional groups are demanding for right to self-determination. Although, the concept of right to self-determination imply secession, irredentism (secession within a state), merge in existing state and maintain affiliation with existing state, none of the organized groups have ever expressed their aspiration for secession. Even the Maoist insurgency and the demands made by its fraternal or sisterly organizations of scores of ethnic and regional liberation fronts have no intention of secession.

Universally accepted criteria for self-determination such as intolerability, historical right, ethnic composition of the population and expression of the people's will are all applicable in Nepal.

Therefore in the Nepalese context right to self-determination means right to accept:

1. Autonomy,
2. Autonomy of combined groups/regions,
3. Sub-autonomy within autonomy, and
4. Merge with federal government.

Autonomy should not be imposed but each potential group should be given to exercise their right to self-determination. Once the decision is made, reconfirmation for the status could be done every ten years through referendum.

All those groups who exercise their right to self-determination should be allowed to use it several times, not just once. Such mechanism will allow them to change their status of autonomy and sub-autonomy as desired.

### iii. Constituent assembly<sup>1</sup>

In deeply divided multi-cultural societies like Nepal, the whole political system should correctly address the identity politics and constitution is the core instrument to do so (Haysom 2003). It looks like all political actors now increasingly recognize constituent assembly as a preliminary step towards making people sovereign, institutionalizing inclusive democracy and building positive peace.

'Constituent assembly,' according to Canada at the Forks Workshop reports, is a "group of **citizens**/individual stakeholders gathered **together** to discuss general issues" with a purpose "to present the **public will** – or the people's mandate of governance (i.e. on the constitution)." The overall objective of a constituent assembly is "to generate a set of propositions (that represent the mass public's view point) and to expose them to a nation-wide referendum."

Given the mummified state of the Constitution and failure of political parties to strengthen and/or save democracy in twelve years (1990-1992) by amending the constitution, it is now evident that 'normal politics' and 'normal governance' has failed to make constitutional changes. 'Normal politics' is in frozen state because restoration of the House of Representatives is nowhere in sight, political parties has been skirted off or ignored by the King, and undemocratic constitutional changes are not acceptable, on the one hand, and on the other, Maoist insurgency has been intensifying, the main viable option left for reclaiming democracy, restoring peace, and getting out of the present crisis is a "revolutionary transformation" through constituent assembly. As we have lost other opportunities and cheaper and quicker options in the past, constituent assembly may appear to be expensive and little time consuming but given the bleak scenario of the future, skirting off the idea of constituent assembly may prove to be terribly costly and unbearable.

Concerning the mechanisms for selection of the delegates for constituent assembly, nomination and random selection of individuals should be ruled out. The debate should be focused on the solution found through tier system. One of the necessary tiers is representation of different caste, ethnic, language, religious, gender and regional groups. Other civil society organizations and political parties and independent elections could be other tiers. All delegates should reflect group interests. The delegates of the constituent

<sup>1</sup> I have extracted this section from my paper "Issues Confronting Youth and Media" published in **The Telegraph**. Vol. 19, No. 40, Wednesday January 1, 2003. Pp. 2,3 & 4.

assembly should travel in all parts of the country to have a face-to-face interaction between the citizens. Mass media should play a key role in disseminating information coming out from such meetings. The minimum time frame of the constituent assembly should be one year but not more than two years. Decision in Constituent assembly should be by two-thirds majority. The Constituent Assembly may come up with a set of alternative propositions to be ratified by the Nepalese people through referendum. The Nepalese people should ratify the finalized Constitution through referendum.

There should be no conditionality for constituent assembly and the results should be binding to all, the Maoist insurgents, political parties, the King, civil society and all the citizens. If the final outcome is for multi-party political system, the King and the Maoist insurgents also should abide with it and if it is otherwise, political parties also should abide with the decision. Similarly, if the result is for People's Republic as proposed by the Maoist insurgents, all political parties, the King, civil society and the Nepalese citizens should abide with it and if otherwise, the Maoist insurgents also should abide with it. Further, if the result is for the direct leadership of the King, the Maoist insurgents, political parties, civil society and the citizens should abide with it and if otherwise, the King should abide with it. Once the issues are settled, the losers should be allowed to use to expand their ideas and gain support of the people in a peaceful way and periodic referendum may be used to express the will of the people for change or status quo.

#### **iv. Referendum and Public Propositions**

Referendum and public propositions should be adopted as one of the effective processes of inclusive democracy. Referendum should be done at three levels and public propositions should be on three fields, which are as follows:

Three levels:

*Federal Referendum:* Propositions of federal concern and/or significance should be passed through federal referendum.

*Nation's or Regions' Referendum:* Propositions of nations' or regions' concern and/or significance should be passed through national or regional referendum.

*Local Referendum:* Propositions of local concern and/or significance should be passed through local referendum.

Public propositions should be on three fields:

1. *Constitutional issues:* Referendum on whether the existing political system should be changed or whether any constitutional provisions must be changed should be done every five years. This will give hope to losers to win next time. This will indeed prevent them raising arms or indulging in insurgency or revolution or radical activities for change in the constitution or the political system.

2. *Legislative issues*: Referendum on legislative issues should be done every two years.
3. *Development issues*: Referendum on development issues should be done every two years.

Referendums are expensive. No matter how expensive it may be, in the long run the benefits outweigh the losses. The benefits include ownership in governance, social harmony, positive peace and prevention of violence and counter violence.

## CONCLUSION

The expected model and process of inclusive democracy neither results in nor encourage disintegration of the country and communal violence, as perceived by the Bahunbadis. On the contrary, these are indeed desperately needed to avoid any such misfortune in the days to come by maintaining minimal unity in highly diversified society. Also, the means to this end is to trash reformist agenda by advocating for rights-based movement blended with revolutionary or radical transformation through roundtable conference, right to self-determination, referendum, and constituent assembly to re-write the constitution and to practice inclusive democracy.

It is clear that any other model of democracy, except inclusive, in Nepal would continue to breed insurgency based on caste/ethnicity, language, religion and region. The best way to avoid them is inclusive democracy as suggested. There is need for intensive discourse on the issues I have discussed and analyzed in this paper among and between different organized excluded groups and also between the rulers and excluded groups.

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