

Participatory Democracy and the Problems of Exclusion- A Dalit Perspective¹

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Background and Introduction

In his recent deliberation, Mr. Bijayakumar Gachhedar, a long time minister and current general secretary of Nepali Congress (Democratic) Party gave a very clear picture of the situation about the passing out of the public service contestants for the post of technical assistants with Nepal Telecom Authority when he was Minister of Communication. For 250 posts, those who had passed the test were from Brahmin, Chhetri and Newar community. Since he could not see a single name of Janjati in the final list, he asked the authority the reason, and they replied that the minimum marks set to pass was 60. Then he immediately asked to reduce it, and when it was set 45 as the pass mark only a few candidates of Janjati were seen, but none from Dalit. He further gave the example of his own community group, upon searching for long he found a lady from Tharu community who had passed bachelor level and inspired her to join the police force, since the people of his community do not want a profession which requires carrying of a gun, she did not join. Now the same Tharu women being involved in the insurgent group are carrying modern weapons like SLR and fighting with the state army. It is not only the case true with Tharu but other marginalized group like Dalits as well.

The democratic constitution of Nepal 1991 recognized the fact that practice of untouchability exists in the society and requires abolition. Indeed it mentioned specifically that such practice in the public places will be punishable by law. In the subsequent amendment of the civil code the Muluki Ain did make a provision of upto one year of imprisonment and 3 thousand rupees cash punishment. However, an amendment in the same code was passed by the parliament in 1992 stating that all the citizen has right to perform their tradition and custom and while observing so if some one is discriminated that will not be considered a crime punishable by law. The Dalit activists of Nepal found that very much contradicting to the spirit of the democratic constitution and that would indeed prohibit them from entering temple if implemented. Therefore, Mr. Manbahadur Vishwakarma (ex-MP) filed a writ petition with Supreme Court challenging such provision passed by the democratically elected government of Nepali Congress led by Girija Prasad Koirala and witnessed by left opposition parties including UML, United Peoples Front etc. It was not a matter of surprise that RPP did not oppose such amendment but it was an astonishing surprise that those so called left parties were mere spectators and did not think of its serious consequences to Dalits. Fortunately the Supreme Court by the full bench of justices Laxman Aryal, Kedarnath Upadhyya and Trilokpratap Rana declared null and void of such provision, which gave a great relief to the whole Dalits of Nepal.

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Democracy is nothing but the participation of its citizen in the governance, either directly or indirectly. In order to participate in the governance people participate by being candidate or by voting . Dalits of Nepal have been voting but have not been able to win in the election especially for the house of representatives. Three consecutive elections have taken place in the country, except in 1991 election by Krishnasingh Pariyar of Banke electorate constituency no 2 winning none other candidates have been able to win the election.

However, the situation in the local election is not that bad, there are 75 districts, 58 municipalities and 3913 village development committees and there is a provision in the local self development act that major positions in these local governments are elected and some are nominated from backward communities. An informal study carried out revealed that about 5% of those elected or nominated are from Dalit community, majority of them are in the ward committee level.

Above three examples are from the democratic era that we are currently in which show the attitudes of democratic institutions that protect and promote the democratic culture and rights of the citizens.

In this paper I will be discussing about the conceptual framework of exclusion, inclusion and participatory democracy with the stages of participation. Within the framework of exclusion I will be discussing from the historical perspective where and how Dalits were excluded. Where as within the framework of participation, inclusion and democracy I will be discussing participation for representation, empowerment etc. In the conclusion section I will give the current debate going on in the country and my recommendation.

Exclusion and Dalits

Some one or something doing 'Exclusion' (de Haan 1998) ie causality. Concepts like poverty, vulnerability, deprivation, inequality do not impute causality. So, social exclusion is about the conscious exclusion of certain people from formal and informal institutions. If we accept social exclusion as conscious exclusion of certain people from formal and informal institutions then Dalits of Nepal have been excluded through religious scriptures and practices for the last 5 thousands years and in Nepal for the last 12 hundred years, especially from the Lichhavi era (200-979AD). Lets examine how Dalits were excluded from the formal and informal institutions.

If we see the history of Kathmandu valley though it is referred as the history of Nepal, the caste system, or social exclusion to Dalits was not so severe, as the practice of Buddhism and Hinduism as well as animism were flourishing up to Lichhavi era, however, since the time of Malla era it was made very hard. The discredit goes to Malla king who is also called a son-in-law king by scholars like Mr. Hiranyalal Shrestha and Malla K Sundar, who was married to heir of thorn Rajjalla Devi. It is believed that he entered into Kathmandu valley who might have escaped from India fearing prosecution of Muslim invasion and rose into power through unfair means. He wanted to invite few Brahmins to

his kingdom who refused to do so stating not only his kingdom but the holy river Bagmati was polluted and impure due to not practicing Hindu rituals correctly as prescribed by Manushmriti. You may all know that Manushmriti has several provision to outcaste and dehumanize Dalits and women. King Jayasthiti Malla (1360-95) invited 5 Brahmins from India by requesting them to make the rules as they wished. These Brahmins (in these days term consultants) were Kirtinath Upadhya 'Kanyakubja', Raghunath Jha, Ramnath Jha 'Maithil', Shreenath Bhatta & Mahinath Bhatta were Daninatya Brahmin. They formulated rules based on Manushmriti and introduced severe punishment for those breaking caste hierarchy and barriers. Those who were referred as untouchables were segregated from mainstream society and they had to live in the outskirts of towns which are still the case as Sunar Gaon of Kalimati and Poda tole of Dallu used to be the outskirts, likewise Sarki tole of Baneswar. They had to wear special and bad looking dresses and ornaments so that others would recognise them easily. They were not even allowed to enter the town in the night. Kulu caste supposed to shave hair and make musical instruments from leather. The society of the valley was divided into 64 castes and all of them were allocated with designated occupation. The occupation given to untouchables were filthy and undignified. They were not allowed to change the occupation, upon doing so would be fined Turu 120 (Rs). There could not be any severe example of exclusion other than this.

The similar system of Kathmandu valley was copied by the forefather of King Prithvi Narayan Shah, the king of Gorkha. Though his rule was categorized as ideal in the history "Nyaya Napaya Gorkha Janu" but there was severe punishment for untouchable for the similar crime. For example if an untouchable man would fall in love with higher caste woman he would be executed where as an upper caste man would be degraded.

I regard it as a joke of the Nepalese history that both these King Jayasthiti Malla and Ram Shah has been decorated as reformer kings. I on behalf of Dalit movement of Nepal strongly urge the history of Nepal to be rewritten and take out the term reformer to these inhuman kings.

Upon the unification of Nepal king Prithvinarayan Shah continued the similar situation stating that he wanted to make Nepal Asli Hindustan (meaning real Hindu country). He indeed started a system of upgrading from untouchable to touchable, as he upgraded Duwar to Putwar, who had helped him save life upon his defeat in the battle of Kirtipur, this can be taken as a good example of 'inclusion', as against 'exclusion'.

In the unified Nepal there was still no written law and upon seizing power through the bloody massacre of royal officials in 1846 Junga Bahadur Rana introduced the first Muluki ain (civil code) in 1853 with the help of again Brahmins Lokpati and Lekhpati Jha. The civil code divided the society into five caste groups Tagadhari, Khas, Matwali, touchable Shudra and untouchable Shudra. Untouchable Shudra further divided into two, sprinkle required and sprinkle not required.

During this period few castes like Manandhar (during the time of Jungbahadur himself) and Nakarmi (by Birsumsher) were upgraded to touchable castes, yet another example of social inclusion.

Exclusion after the overthrow of Rana regime

It is quite interesting to note that Devbrat Pariyar was one of the founder members of Nepali Congress and D.B. Pariyar took the post of general secretary of the same party, in that way Nepali Congress seems to be more inclusive political party in its decision making body. Unfortunately after the demise or exclusion of these two Pariyars none has reached to the level of central committee.

During the struggle for democracy prior to 1950 a few Dalits laid their lives meaning that they have contributed greatly for the democracy. To the contrary of their sacrifice the civil code of 1853 was still in place until 1963. It is very surprising to note that the Gorkhapatra Chhapakhana reproduced the version of 1853 civil codes in 5 volumes in 1952, that clearly showed that the government formed after overthrow of Rana did not have any intention to bring necessary reform in the law. As a result of that, those who were jailed for committing crime on the ground of caste were still serving the imprisonment, where as all the political prisoners were freed.

From the democracy and inclusion point of view since 1954 king started nominating Dalits into the upper house of Parliament and that tradition is still continuing. In the many governments formed between 1950 and 1960 none Dalits were nominated in the council of ministers or taken into the government jobs.

The nomination of one person in a representative body of the governance by the head of the state should be considered an inclusion process or co-option is debatable. However, I am of the opinion that after the overthrow of the Rana oligarchy rule the issue of Dalit's representation in the governance was not an issue at all with the major political parties, be it Prajaparishad, Nepali Congress or Communist Party, though Dalits continued their contribution by involving themselves in the various political parties based on their ideologies or their association with a particular group. It is the institution of King in 1954 to start nominating a Dalit in the Advisory Council (Sallahakar Sabha) and the first person to be nominated was Gopal Yogi (Kapali). During the ten year practice of democracy the political parties never thought of brining Dalits into mainstream politics, contrary to that King has continued that practice as of today since then. Only since 1990 the major political parties have started to nominate Dalits in the state of governance mainly in the upper house of the parliament. Since inclusion has to be understood in the context of placing or removing institutional barriers so has king removed the institutional barriers by starting nominating Dalits in the parliament which was followed or copied by the major political parties. I consider it as a process of inclusion.

Panchayat era and Exclusion

The greatest achievement of Panchayat era is the abolishment of civil code 1853 by replacing through new one as it made Dalits of Nepal equal before law, however, it continued excluding by not having punishment in place for those who discriminate Dalit. Likewise, the right to organization was severely prohibited Dalit could not exert their effort for the process of inclusion. The king used to nominate one Dalit into Rastriya Panchayat (then one party parliament) and all the Dalit leaders used to fight for the single post by praising the king begging for his mercy. From the inclusion point of view king appointed late Hiralal Vishwakarma as member of parliament and made him assistant minister first and state minister of supply in 1981. Other than this no example of reform or inclusion can be cited during this period.

Participatory Democracy:

I could not find a phrase that would give the exact meaning of 'participatory democracy' however, I found a phrase 'political participation' in the Penguin Dictionary of Sociology which is synonymous to this. According to that dictionary 'political participation means taking part in the political processes that lead to the selection of political leaders and determine or influence public policy' (p264). Likewise same dictionary defines democracy as rule of citizen as against tyrant or aristocracy in terms of ancient Greek society. In case of modern democracies citizen do not rule directly but through the typically elected representatives and or through parliaments.

In case of ancient Greeks citizen referred to not the ordinary people but those who had wealth and originated from the Greek city Athens. In the ancient democracy slave and those who migrated from outside to Athens were excluded. If we see the history of democracy then it has gone through the several phases. The same dictionary also states that democracy serves the interest of elite or industrial class. In case of Nepal if we analyse the democracy from ancient and modern perspective then we are in transition. Be it in the ancient time or in the modern time democracy usually serves the interest of elite as to stand up as a candidate in the election of any part of the world it requires huge amount of money which usually comes from business or market in the form of direct or indirect donation. The market has its interest of protecting or promoting it, without serving the interest of these forces none political leader or parties can function. Therefore, one can say that democracy is for wealthy people and not for the poor people. It is true even in case of United States where voter turnout is lower (less than 55%) and majority of the relatively poor people, ethnic minorities do not take part.

In our case the voter turnout is also similar and the government formed over the last 14 years have not been able to address the need and interest of poor and marginalized people. I do not mean to say that the nothing has been done, most of the government were proactive and determined to implement the policy of globalization or privatization, but it was not serious to implement the land reform policy though it was announced in the 8 point programme of Sherbahadur Deuba in 2002 like wise policy and programmes for Dalits. The policy for globalization and privatization was in the interest of market where

as land reform was in the interest of poor and marginalized people like Dalits. Unfortunately, the democratic government elected with the votes from people but with the money from business can not be courageous to put forth the radical agenda.

Democracy also the Tyranny of Majority:

Democracy is also called a rule of majority and majority is formed in terms of ideology, religion, race, gender and in case of South Asia caste which is not only confined to one particular religion. In case of India the majority is Hindu in terms of religion and in terms of caste it is upper caste Hindu, Christian or even Muslim. In case of Pakistan and Bangladesh majority are Muslim and be it Christian or Hindu Dalit they are discriminated against in their daily life and denied their legitimate participation in the political processes. Therefore, it is very natural that interest of the exploited groups like Dalit is not represented and duly addressed. Nepal is no exception and it can not be said it is a rule of majority when it is analysed through the eyes of castes, because only three caste groups Brahmins, Chhetri and Newars are in rule and from gender perspective high caste male whose percent in terms of population can be taken as around 17%. These three caste groups are dominant in all spheres of governance, be it executive, judiciary or parliament. Therefore, it is not a surprise that mostly the interest of these groups are being served.

In this context one of the champion of democracy and writer of American constitution James Madison stated that system of government should safeguard rights of people by avoiding rule by king or mob, here he referred mob as majority rule. He defined federal structure of government which has division of powers with large electorate which promotes representative democracy by electing trustees not delegates who can develop independent views and make judgements on public good. He emphasized on balance between small cabals and large mob.

Inclusion and Participation

Since we used the framework of exclusion to analyse the situation, now we need to understand its antonym to address the problem which is 'inclusion'. It is a removal of institutional barriers and enhancement of incentives for access to development opportunities, and outside-in and top-down phenomenon that has relational and structural elements. It comprises two sides: one side is the willingness and efforts of excluded groups for inclusion with those who excluded them. Aspects of it are policy and institutions, attitudes and incentives. If we see from the social movement points of view then there are three movements going on, namely women movement from gender perspective, Indigenous people's movement and Dalit movement. The women's movement is inclusive of all movement, however, women of Dalits and Indigenous are not finding much space, as largely it is dominated by ruling caste women, ie Brahmin, Chhetri and Newars. So far I know Indigenous people have their own rituals, religion and culture, in order to preserve it they do not want inclusion, they rather want exclusion, contrary to that Dalits of Nepal want inclusion, that means removal of institutional barriers and willingness of those who excluded them.

Here I see a need to refer to Indian democracy, which I think is the most inclusive as backward communities like Dalits and Tribes have been represented in the government, mainly in the parliament and administrative services because of reservation policy as provisioned in the constitution and credit goes to Dr. Ambedkar who was the chairman of constitution drafting committee in 1950. Even in the current parliament there are 79 member of parliament from Dalits out of 540 which 15%, which is 1% less than their size of population which is 16%. I feel that the democratic practice of our big neighbour is leading towards exclusion, as they are doing politics in the name of religion and caste. The most secular party the Congress is loosing its grips and it has failed to form its majority government and had to make alliance with small parties which have been formed in the name of religion and caste group and regional basis. Despite having significant representation in the parliament and their say in the government a separate regional party led by Kansiram and Mayawati in Uttar Pradesh is emerging and has been able to form a minority government twice. Now they have slogan to denounce 3Ts Tilak, Talwar and Taraju which symbolizes Brahmin, Chhetria and Vaishya. Since both Kansiram and Mayawati come from Chamar of Dalit, they are politicizing their own caste group. Lately, in the ongoing election they have incorporated people from upper caste people and given the party tickets in the election of Bihar. This exclusionary practice even among the Dalits of Uttar Pradesh is very much note worthy.

Here in Nepal we Dalit do not have our own culture and religion, of course we have occupation which are very much related with the culture of the country which is indeed the culture of indigenous people. Since the discrimination is very much related with the occupation, there are hardly few Dalits who want to continue their occupation. That means they want assimilation with the mainstream society. However, in one programme an activist and academic from Janjati group told me that "you are taking the illusion of being assimilated, these orthodox ruling caste would never want to take you", he further suggested me to take a path of separation and start glorifying the Dalit identity. I am not yet fully convinced with his suggestion. But some of our friends are advocating to promote Dalitology. As of now the word Dalit connotes a bad meaning of being splitted and above all a group belonging to formerly untouchable caste group. Their argument is that Dalit is a group which has its own occupation which is the foundation of rural economy, they are hardworking etc. One none Dalit friend has given the separate meaning for the word Da, li, ta. 'Da' means Daksha (expert), li means lipta (dedicated) and ta means tatpar (ready all the time). This terminology is good in itself but I am not sure whether we aspire for removing the word Dalit in the long run or promote it as an identity. As long as we do not reach to the level of integration the word Dalit will be used which could be another 50 years at least.

When we talk about 'inclusion' we need to remove the institutional barriers which are related to structure and composition. Here we are talking about participatory democracy which is the participation of all sections of society in the decision making process which affects their lives and livelihood.

As we all know there are three institutions in a democratic state, they are executive, judiciary and parliament, when I see it from Dalit perspective, there are several

institutional barriers particularly in the electoral system and judiciary. The current electoral practice which is deeply rooted into the caste system does not allow easily for a Dalit to win the election, first of all the major political parties do not give party ticket to a Dalit candidate, in other hand Dalits are hardly in majority in most of the constituency or even if they are in majority like in Saptari and Siraha district of eastern Nepal their awareness level is not that high that they would vote for a Dalit candidate. The current constitution of Nepal is another biggest barrier to promote Dalits participation in the decision making, as it does not compels the political parties for compulsory candidature as it has for women. That means these barriers are constitutional, and social values which are negative towards Dalit.

The definition of inclusion also has to deal with incentives or disincentives and those who are excluding have to feel that if they do not want inclusion then what incentives or disincentives they will have. Over the last 235 years of rule by these ruling caste group they enjoyed very much from being in the power, however, lately, people from marginalized or excluded groups have realized that the rule of game needs to be changed. The same sentiments has been largely cashed by the insurgent groups as they have gone far ahead to provide the right of self determination based on the ethnicity and geography. Which is very much evident in the example given by Mr. Gachhedar. Therefore, there is disincentives for the ruling caste if the problem of excluded groups are not addressed seriously.

Participation defined:

According to the Random House Dictionary 'participation means taking part, sharing benefits and or profit. When we talk about participation in democracy, it is the participation in the governance. Participation take place in two ways, 1) immediate participation and 2)intermediate participation. When we talk about immediate participation it is participation of the person physically in the process or in the decision of policies and allocation of resources which affect their lives. Intermediate participation is sending a representative through voting or consensus in a forum where decisions are taken over the policies or resources. When we talk about the participation of Dalits as immediate or intermediate second is true. There are local level governance which starts from ward to VDC to DDC. In case of central level government it is mainly the parliament, both lower house and upper house. Since direct people's voting does not take place in case of upper house, a few Dalits (at the moment there are 3 from Dalits) and none in the lower house. If we talk about the intermediate participation then to some extent the voter turnouts among Dalit is same as their upper caste (though none separate study has been carried out) that means around 60% the total population of Dalits do take part, which means 1.2 million voters which is indeed a quite significant number from the country's perspective. Unfortunately, their interest and problems have not been addressed as they would have liked.

Why Participation in the democratic process?

Participation for representation:

Due to ossified and centuries old tradition of exploitation and exclusion the interest and concerns of Dalits have not been taken seriously by those who were supposed to represent them through intermediate participation. Most of the bills of Dalit are related with economic aspect and that can be raised only in the lower house of parliament, since there is no representation there the Dalit upliftment bill could not be presented. Likewise there is clear provision within the local government self development act to spend certain amount of budget for the welfare or human development of the marginalized communities like Dalit. If we see the expenditure pattern both in VDC and DDC either there could be no budget allocation, if there is it will be meagre amount. It is clearly due to lack of their representation.

Participation for control and access to the resources and decision:

Unless there is participation the scarce resources allocated by the government for the welfare of their people are taken by elites or those who have control and access to it. If Dalits have participation then they can demand their share of resources.

Participation for Socialization:

Most of the institutions are captured of elites who are usually feudals and elite from upper caste group, that means even in the democratic institutions social relations remain the same as in the society, that means a Dalit would not be a real citizen with equal rights as their fellow upper caste people. When there is a participation in these institutions then tendency of looking down upon to a Dalit starts to change. It may be difficult for an upper caste person to accept the reality, but in the long run that has to be accepted. For example if there is a VDC chairman from Dalit then he will be saluted by non Dalits changing the social pattern.

Participation for empowerment:

“Empowerment is often equated with gaining power and access to the resources necessary to earn a living”. An empowered individual can critically analyze her/his social and political environment and enjoy a feeling of control. One of the fundamentals of democracy is to empower people especially those who are disempowered. When there is participation of Dalits in the process and decision then they will be empowered and enjoy the feeling of control.

Participation for ownership:

In Nepal at the moment ownership of general people and Dalits in particular in the democratic process is almost non existence as they have not been able to get the fruits of democracy. Since they have not been able to have immediate participation, they do not

know what happens and they do not have one whom they can trust are representing their interest. Therefore, people are not showing much concern over the movement against regression of major political parties. If majority of them would have a feeling of ownership through immediate participation they would have come forward to safeguard it at any cost with increased loyalty towards the system.

Conclusion

Though democracy is rule of majority but it should not be the tyranny of majority, as stated by James Madison, there has to be balance between cabals and mobs by representing their interest in the process and institutions of democracy. Lately the term social justice is being used frequently in the participatory democracy, which is distribution of farness and providing justice which is due to them. In case of Dalits without their own fault and crime but upon serving the country and society through their labour and traditional skills they have been not only excluded but were forced to live dehumanizing lives. Now the time has come to compensate them by having appropriate policies and programme in place.

Although we are talking about participatory democracy, there is no elected democratic institutions both at the local and national level. In other words due to two warring sides with guns the democracy is in stake. We also know that over the last 14 years of democratic exercise we were not able to enhance the inclusive democracy, however, the fundamentals of democracy such as freedom of expression, freedom to association was largely enjoyed by all sections and class of the society so had the Dalits. As a result of that the problems and issues of Dalits have come to surface (the credit goes to insurgents and international communities as well) and country has realized the fact that without addressing the problems and issues of Dalits and other marginalized groups no lasting peace can be achieved.

There is no democratic process in place and which is unlikely to take place in the near future, without finalizing the agenda of constituent assembly there is a grim chances of restoring the participatory process. We all know that one of the institutional barriers is the constitution of 1990 which does not allow to have immediate participation of Dalits in the democratic process, without its amendment we can not hope for the same. At this stage we are not only discussing its amendment but redrafting through constituent assembly and it is the right time to discuss how we can have participatory democracy for Dalits right through the constitutional guarantee.

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