

Mahendra Lawoti. 2005. *Towards a Democratic Nepal: Inclusive Political Institutions for a Multicultural Society*. New Delhi: Sage Publications.

It is now well known that members of the Constitution Recommendation Committee (CRC) set up to aid the drafting of the 1990 constitution were shocked when the majority of suggestions they had solicited from the Nepali public related to ethnic, religious, linguistic and regional issues. Demands which in today's political situation appear reasonable and pertinent – for recognition of languages and cultures other than Nepali, for proportional representation of historically marginalized groups in the

legislature and other state organs – were in 1990 summarily dismissed by the CRC as threats to national unity.

Justice Bishwa Nath Upadhaya's remark at that time that it was "unfortunate" that most of the issues brought to the attention of the CRC, which he chaired, were about "peripheral issues" is sometimes now related with disbelief as an illustration of high caste state-elite insensitivity towards the aspirations of the majority of Nepal's people. Ideas of nationalism imparted by the Panchayat regime – of a people united by a single language and culture, under the benevolent protection of a Hindu monarch – had heavily influenced the very people who had fought for the abolition of the Panchayat system and the political class was disconnected from non-Bahun/Chhetri socio-cultural groups.

That the 1990 constitution, while enshrining the basic values of multi-party democracy and formal equality, was in large part discriminatory towards many of Nepal's varied ethnic/caste groups is now widely accepted. That Nepal's ethnic heterogeneity demands more than a state that guarantees only formal political equality has become a truism. The open political space that was created due to the adoption of basic civil liberties after 1990 allowed for historically marginalized groups to organize and articulate their grievances against the state and offer prescriptions for state reform. Among Nepal's varied socio-cultural groups, it was members of the group now known as *janajāti* that became the most cohesive and articulate. While it was the Maoists who were chiefly responsible for making ideas such as the need for a secular and federal state a major agenda for Nepal's political class, much of the current legitimacy for these ideas comes from the efforts of *janajāti* activists and scholars over the past two decades.

Mahendra Lawoti falls directly within this lineage of activists and scholars. His 2005 book *Towards a Democratic Nepal: Inclusive Political Institutions for a Multicultural Society* attempts to synthesize and bring coherence to a wide variety of scattered arguments and offers prescriptions based on the comparative study of countries that have succeeded in managing diversity through political accommodation. His book, which is comprehensive and well argued, although often tediously repetitive, has become the one of the most important manifestos for reform which places accommodation of marginalized ethnicities and castes as its central goal.

The 1990 constitution, Lawoti argues, despite being nominally democratic, has been responsible for increased exclusion of marginalized socio-cultural groups from the political process. The adoption of a

majoritarian political system – key elements of which are a unitary state and First-Past-the-Post electoral system – which, suited for countries with a homogenous cultural mix, served in Nepal to perpetuate the dominance of what Lawoti refers to as Caste Hill Hindu Elite Males (CHHEM). The unitary nature of the Nepali state led to over-centralization of power and extreme power abuse. Administrators deputed by the government to the regions displayed great callousness towards the people they were supposed to serve as they were only accountable to the centre.

By declaring the state as Hindu, the constitution discriminated against other religions; in recognizing only Nepali as the official language, it relegated other languages to second-tier status; through restricting political mobilization on ethnic/caste/regional lines it violated the fundamental rights to organization and expression. The failure to protect group rights of minorities and provide affirmative action measures for oppressed groups, meant that dominant groups had an unfair advantage to the spoils of the state. Through forcing other socio-cultural groups to adopt the Nepali language and other norms and values of the dominant group, the state not only impeded the access that non-dominant groups had to the state, but also served to damage their indigenous languages and capabilities.

Lawoti's venom is reserved for the post-1990 dispensation; he has little against the Panchayat regime. His insistence that the political institutions adopted after 1990 were chiefly responsible for institutionalized exclusion is somewhat strange as it was the Panchayat system that consolidated almost all of the aspects of the Nepali state that Lawoti believes harmed non-dominant socio-cultural groups.

Though never explicitly, remnants of a fairly influential trend within Nepali thought that seeks to place all blame for Nepal's failures on Bahunbad while absolving the monarch and those around him appears in Lawoti's thinking. Historically, most hill-Nepalis, including *janajātis*, while holding grievances against the state, have been trained into some aspects of Panchayati nationalism and view the monarchy with fondness as the adhesive that holds the Nepali nation together and as a traditional and benign source of patronage. The rapacious and scheming Bahun, in contrast, has no redeeming qualities in this mythology.

These views have been turned into a theory in Dor Bahadur Bista's seminal anti-Bahunbad manifesto, *Fatalism and Development* (1991). Bista claims that development has failed in Nepal because of the values and attitudes propagated by Bahunbad. In contrast to the Bahun, is the loyal, hard-working and collaborative *janajāti*, who represents the

“authentic” Nepali values. Bista’s ideal Nepal is a place where *jana jātis* dominate the government and bureaucracy and their work-ethic and spirit of collaboration is harnessed for the good of the country by a wise and benevolent monarch.

Although recognizing that the Panchayat system was discriminatory and lacking much fondness for the monarchy, vestigial remnants of these feelings remain in *Towards a Democratic Nepal*. For Lawoti, the post-1990 dispensation is equated with Bahunbad. It is therefore more culpable for institutionalized exclusion than the monarch-led Panchayati regime, which, in Lawoti’s estimation, was at least more representative than the post-1990 political order as it at least inducted people into the government and bureaucracy on the basis of their caste and ethnicity.

Lawoti’s grievances against the post-1990 order run so deep that he claims that the guarantee of formal equality in the 1990 constitution has actually actively hurt the interests of marginalized socio-cultural groups, as it presents a democratic and progressive front to a “racist and sexist” constitution. This, according to him, was deliberate on the part of the ruling Bahun dominated elite: In an uncharacteristic lapse into intemperateness, he writes: “This method of parading a positive façade in the front while hiding the dagger to stab in the back is a typical dominant group operating style in Nepal.” (p. 137)

Nevertheless, issues of relative culpability aside, Lawoti is on firm ground throughout his discussions on the various means through which the state has discriminated against most of Nepal’s socio-cultural groups. The continuation of institutionalized exclusion, he argues, will lead to greater political mobilization and violence by Nepal’s marginalized socio-cultural groups and will have a devastating impact upon the Nepali state’s stability and integrity. To prevent such consequences, it is necessary to restructure the state and its institutions to make it congruent with Nepal’s diverse social reality. Ideally, this would be done through the promulgation of a new constitution, to be drafted by a widely representative Constituent Assembly.

*Towards a Democratic Nepal* was published in 2005, a period when the King’s capture of state power had led to increased conflict and deep political uncertainty. Ideas like Lawoti’s, while possessing a certain cachet, were by no means dominant in Nepali public discourse at the time. Though the idea of a Constituent Assembly had been pushed by the Maoists, elections towards this end seemed a pipe-dream. At that time, then, Lawoti’s book helped to push ideas regarding the necessity for a radical restructuring of the Nepali state through an elected Constituent

Assembly into mainstream political discourse. Now that elections for a Constituent Assembly have become the single most important goal of Nepal's political class, arguments in its favour are less necessary. Assuming that elections to a CA will in fact be held in the near future, it is Lawoti's prescriptions for reform that are of more interest.

Following the political scientist Arend Lijphart's classification of political institutions according to whether they belong to "consensus" or "majoritarian" models of democracy, Lawoti argues that all of Nepal's current political institutions are majoritarian in the extreme and need to be replaced by consensus ones. Among the various kinds of consensus institutions that Lijphart identifies, Lawoti chooses two as most important for Nepal: federalism (as opposed to a unitary state of the majoritarian model of democracy), and a proportional electoral system (as opposed to First-Past-the-Post). In addition Lawoti prescribes widespread reservations for marginalized groups based on their population share in the legislature and other state organs, declaration of a secular state, and other constitutional protections of minority rights.

These prescriptions are discussed in some detail and arguments provided for why they are suitable for Nepal. Federalism, he argues, should be based on ethnic lines rather than on administrative ones, as the latter would simply serve to perpetuate the dominance of elite groups. It is evident that Lawoti has paid much thought to objections people may have to his prescriptions. While discussing federalism, for instance, he is thorough in countering possible criticism: In response to the criticism that Nepal does not need federal autonomy because it is too small, he shows that there are smaller countries than Nepal that have adopted federal structures. In response to criticism that majorities will rule over minorities in the regions where they are in power, he identifies institutions to protect the rights of minorities within regions. And in response to those who say that federalism will lead to the disintegration of the country, he argues that federalism will make secession less rather than more likely as there will be less incentive for groups to secede if their grievances are addressed.

Despite his optimism regarding the positive effects of his political prescriptions, Lawoti himself inadvertently illustrates the difficulties in finding adequate political structures for a country with multi-layered social stratifications. For instance, Lawoti prescribes "non-territorial" federalism to resolve representational problems for groups like Dalits who do not form a numeric majority in any area but are scattered across the nation. Here, "groups that are spread out and cannot form territorial

regions for themselves elect their representatives to a national council in a nation-wide election. The elected representatives govern the group in cultural and educational matters.” (p. 250)

Non-territorial federalism, and other institutional measures such as sub-autonomy within regions and the right to form new regions, Lawoti argues, will ensure that the rights of minorities will be protected within regions. However, it is clear that the rights accorded to groups in non-territorial federalism (being limited to cultural and educational matters) do not provide them with sufficient autonomy and protection from the majority group. The latter, in Lawoti’s schema, will possess too great a degree of administrative and economic power, with substantial jurisdiction upon minorities.

Despite these quibbles, *Towards a Democratic Nepal* remains a landmark in Nepali political discourse. Nepal’s political structure is currently undergoing one of the most significant changes in its history: through the promulgation of a secular, federal constitution, Nepal’s self-conception will officially change from a nation bound together by traditional elements of nationalism (language, culture, religion, land) to that of a state bound together by a political principle of acknowledgement of group differences and what the Indian constitutional scholar Rajeev Dhavan has called “celebratory neutrality”.

A political principle has less emotive strength than belongingness to a cultural group, and many Nepalis (mostly, but not limited to, the Bahun/Chhetri elite) are confronted with anxiety and insecurity as they wonder whether a small, poor country will remain intact if tied together only by political principle. While Lawoti’s arguments may not directly assuage these anxieties and insecurities, they do unambiguously demonstrate that the only alternative to radical restructuring is an increase in violent conflict, upheaval and fragmentation. In its way, then, *Towards a Democratic Nepal* continues to serve as a political document that legitimizes and attracts support to ideas which, though now part of mainstream political discourse, continues to face resistance from certain sections of Nepali society.

By its very nature *Towards a Democratic Nepal* is a book that is fated to become dated, to become overtaken by political events. In a hypothetical post-Constituent Assembly future, where a constitution broadly based along the lines that Lawoti lays out has been adopted and put into practice, it is likely that this book will be seen as a both prescient and naïve product of its time. Prescient, for recognizing the appalling consequences of continued institutionalized exclusion and offering timely

188 Studies in Nepali History and Society 12(1), 2007

solutions for reform. It is naïve because the intense political contestation and compromise going on in the country will produce conceptions of federalism, proportional representation, etc., that are very different from Lawoti's simple and elegant prescriptions. The political institutions that will be adopted will have succeeded in some cases, but will have failed in many others (for, no institutions can solve all of Nepal's problems, as Lawoti sometimes makes it seem in his book). Faced with the divergence between a messy political reality and the elegant and optimistic prescriptions that Lawoti offers, the future reader of *Towards a Democratic Nepal* may think, mistakenly, that the book was written in a simpler and more innocent time.

**Aditya Adhikari**

Kathmandu