

ETHNIC RIGHTS AND POLITICS IN NEPAL

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According to an authoritative UNESCO publication, "Cultural rights are now widely recognized as deserving the same protection as human rights" (Perez de Cuellar et al. 1995: 282). But what are cultural rights? Do only individuals have rights or should certain groups defined by a shared culture be granted special rights that other groups don't have and should those groups be enabled to impose their standards on the individuals who belong to them? 'Cultural rights' can mean both (1) rights to culture, i.e. to maintain cultural differences, with state and legal support if necessary, and (2) differential rights to political and economic resources on the basis of cultural difference. Far-reaching changes in Nepal over the last 14 years and the collapse of the state in the face of the Maoist insurgency have meant that both these kinds of cultural rights have marched rapidly up the political agenda. With large parts of the country not in the effective control of Kathmandu, and development stymied by the civil war, the realm of reservations and ethnic rights is one of the few areas in which governments can take decisions and expect to see some consequences flow from them.

Despite being very similar in cultural terms to its giant southern neighbour, India, Nepal has a very different history. Compared to India, Nepal has had to come to terms with the problems of caste and ethnicity in a modern democratic context far more quickly, and with less time for democratic procedures to embed themselves and become part of the political culture at all levels. In India the state has been officially secular and Hinduism has been a banner under which particular voting blocs have come to power – but only after many decades of democratic governance. In Nepal Hinduism has been the official flag of legitimacy of the Panchayat regime, continued, controversially, in the new Constitution of 1990, despite the fact that in all other respects – particularly language and culture – it aimed to be more inclusive.

Before 1951, apart from banning cow slaughter, the Nepalese state did not impose cultural practices on its subjects, but rather led by example. Nick Allen has elegantly described, for the case of the Thulung Rai, the gradual and almost imperceptible way in which this Hinduization occurred, with the people concerned lacking the concepts even to articulate how they had moved over a number of generations from viewing Brahmans as a separate people to accepting them as a superior caste (Allen 1997). By this means, there was a slow process of Sanskritization (the gradual and piecemeal adoption of Hindu practices) throughout the country.

There was an additional way in which the state attempted to unify the country and that was by encouraging a single festival, Dasain, at the end of the harvest. Every local headman was expected to stand in for the king and take the leading part. Ritual roles were distributed on a caste basis with more demeaning roles being ascribed to 'tribals' or low castes (Pfaff-Czarnecka 1993). At the same time the emphasis on animal sacrifice in Dasain – buffaloes in great number in royal centres, a goat by each individual household – engendered a Tibetan Buddhist countermovement: many Tibetan Buddhist monasteries carry out rituals on behalf of the slaughtered animals and to make up for the sin of the killing.

Thus the Rana regime gave a substantial impetus to a process of Sanskritization that had begun in some places already in the eighteenth century and before (Whelpton 1997: 43): many members of the 'tribes' or ethnic groups in the middle hills adopted both the language (Nepali) and the culture of the dominant group in this period. By comparing the 1990 ethnicity figures with those for mother tongue, Whelpton (1997: 59) estimates that language loss among the major groups of the Nepalese hills has reached 68% among the Magars, nearly 50% among the Gurungs, 34% among the Newars, 16% among the Rais, 14.5% among the Limbus, and 11% among the Tamangs. Anyone who has made casual observations of the younger generation in urban Nepal will know that these figures are from static: for many

populations a kind of 'tipping point', at which it no longer makes sense to speak an ethnic language rather than Nepali to one's children, has already been reached, so that in the decades to come we can expect an even more rapid decline of languages other than Nepali.

The Panchayat Regime and Cultural Difference

The fall of the Rana regime is seen by Nepalis today as the end of a period of severe autocracy that was wholly deleterious to the country. Thus the period after 1951 was experienced as, and is still remembered as, a great liberation. However the first election with political parties in 1959 was quickly followed by the abolition of political parties and the introduction of a new authoritarian regime: the Panchayat system. Although condemned as 'fascist' by its opponents, it would be wrong to see it as having been as violent or as arbitrary as the Rana regime.

The Panchayat regime went through a number of changes in the three decades between 1960 and 1990. Most importantly, student protests in 1979 led to a referendum in 1980, on whether to continue with the non-party system. Although the Panchayat system emerged the victor with 55% of the votes, the King had conceded the principle of direct elections to the National Assembly. Before that, in accordance with the Panchayat ideology of building from the bottom up, which was supposedly in line with traditional Nepali national character, there had only been indirect elections (village representatives nominating district level representatives who in turn selected national representatives).

Despite these developments, it is fair to say that there was a single guiding ideology of the Panchayat regime which persisted, with, no doubt, changes of emphasis, throughout its 30 years. The regime itself talked of the need for such an ideology and attempted to use the official media and school system to propound it. The ideology can be summed up as economically developmentalist, culturally integrationist, and politically monarchical. At the same time,

the new regime did enact several modernizing legal measures, such as a law that enabled unmarried women over 35 to inherit a share of the ancestral property and several measures collectively referred to as Land Reform (1963-4). The increasing monetization of the economy, especially in the Tarai and the cities, coupled with increased levels of education and a gradual decline of deference, inevitably brought new values in its wake.

Thus, the Panchayat period combined (a) formal legal equality without any measures of positive discrimination as in India, thus ensuring continued dominance of the Establishment by Bahuns, Chetris, and Newars, (b) endorsement of traditional customs and religion, and (c) an aspiration to national integration by means of the adoption of Parbatiya culture on the part of minorities. It was evident with the collapse of the regime in 1990 that this had been no solution to the problems of cultural diversity, but had simply deferred them.

Changes After 1990

In 1989-90 the 'People's Movement' overthrew the by now morally bankrupt Panchayat regime. A new Constitution was promulgated in 1990, which placed sovereignty firmly with the people rather than with the King. However, despite the beginnings of republican rumblings, the position of the King was confirmed: the old definition of Nepal as "an independent, indivisible and sovereign monarchical Hindu Kingdom" was changed to "a multi-ethnic, multilingual, democratic, independent, indivisible, sovereign, Hindu and Constitutional Monarchical Kingdom."

It is immediately clear from this definition that ethnic and cultural differences have been given a legal and political recognition that was wholly lacking during the Panchayat period. The Constitution, while reserving to Nepali the term 'language of the nation' (*rastrabhasa*), designated all languages spoken as mother tongues in the country as 'national languages' (*rastriya bhasa*), and as such guaranteed the right to primary education in these languages.

So far as I know, however, in Kathmandu there is just one private school, funded by a Japanese social service foundation and taking a large number of children from deprived backgrounds, where primary education is given in Newari (Jagat Sundar Bwone Kuthi in Dalu). All other schools continue to teach in Nepali or, increasingly, in the rapidly expanding private sector, in English, though many schools in the east of the country are said now to make use of new textbooks in Limbu and one of the Rai languages.

Meanwhile, from 1994 Radio Nepal started to broadcast the news for five minutes a day in languages with more than one million speakers. The Constitution gives further support to a policy of multiculturalism in Section 26, subsection 2, which reads:

The State shall, while maintaining the cultural diversity of the country, pursue a policy of strengthening the national unity by promoting healthy and cordial relations amongst the various religions, castes, tribes, communities and linguistic groups, and by helping in the promotion of their languages, literatures, scripts, arts and cultures.

One should note that, alongside the entirely new recognition given to different cultural groups and to necessity of promoting their cultures, the Constitution commits the state to a policy of national unity. It is a question of 'unity in diversity'. Furthermore, to the enormous disappointment of many Buddhist and ethnic activists, the new Constitution of 1990 continues to define the kingdom as Hindu, despite an enormous demonstration bringing together all those who favoured a secular ('religiously non-aligned') constitution. In short, the framers of the constitution did not feel that they could place the term 'multi-religious' alongside 'multi-ethnic' and 'multi-lingual'. This led to an enormous increase in accusations of 'Brahmanism', i.e. pro-Brahman policies and Brahman domination, charges which were further fuelled by the eventual introduction of news read in

Sanskrit on the radio and the introduction of compulsory Sanskrit in schools up to class 8. Those who wanted a secular Constitution argued that non-Hindus were condemned to second-class citizenship and that therefore the Constitution was not fully democratic. Development expert and Newar activist, Keshab Man Sakya, declared that the Constitution instituted government "by the people, of the people, for the Brahmins" (Sakya 1990: 10).

A range of groups, with different claims, have come forward to take advantage of the new multicultural situation after 1990. At one extreme, the Royal Nepal Academy has begun a new multi-lingual journal, called *Sayapatri*, which publishes scholarly and literary articles both in Nepali and in other national languages, and provides a parallel Nepali translation in the latter case. A National Ethnographic Museum has been proposed and agreed in principle by the government, in which all the 69 recognized ethnic groups and castes of the country will be represented: the plot of land will be in the shape of the country and there will be a house for each group in its own traditional style. For all that the creation of an ethnographic museum was a key demand of the activist groups, both of these initiatives have worked with the government and have attempted to be both multiculturalist and inclusive, i.e. to exclude no one.

More oppositional, but still non-political in the sense that it refuses to align itself with any political party, is an organization formed in 1990 that called itself in English the Nepal Federation of Nationalities (NEFEN, today 'NEFIN'), and in Nepali the Nepal Janajati Mahasangh (literally 'Union of Nepalese Janajati Groups'). As its English name suggests, it is supposed to be a federal umbrella grouping bringing together one representative member organization for each 'nationality' or *janajati* in Nepal. The term *janajati* is a neologism that has come to be used for what used to be called 'hill tribes' and non-caste peoples of the Tarai. It excludes the Parbatiya castes, both the dominant Bahuns (Brahmans) and Chetris, and their associated Dalit (Untouchable) castes, as well as the many castes of the more elaborate social hierarchy of the Tarai.

At its fifth national congress in August 2003 NEFEN changed its name to NEFIN (Nepal Federation of Indigenous Nationalities, Nepal Adivasi Janajati Mahasangh), in order to emphasize the claim that all Janajati groups are indigenous to Nepal. The awkward way in which the term *adivasi* ('indigenous', literally 'original dweller') has been incorporated into the ethnic activists' discourse is witness to the dependence of that discourse on international initiatives, which arose only after NEFIN's foundation. The stress on indigenosity came with the UN declaration of a Year of Indigenous Peoples in 1993 (which then became a decade, 1993-2003). NEFIN argues that the two terms, 'indigenous' and 'Janajati', refer in the Nepali context to the same people, but this overlooks the awkward fact that many of the Janajati groups, or sections of them, have well-known myths locating their origin outside Nepal. Currently 48 out of the 59 government-recognized Janajati groups have set up their own representative bodies which have equal representation in NEFIN. The table at the end shows that the vast majority of these groups are very small; so far leadership positions have been dominated by activists coming from the larger groups, such as Tamangs, Gurungs, and Limbus.

Alongside the politically non-aligned NEFIN, there are many much more radical bodies. There are ethnic political parties, such as the Mongol National Organization and the Nepal Rastriya Janajati Party, which were refused recognition by the Election Commission in 1991 (Bhattachan 1995: 132; Whelpton 1997: 59), as well as other movements such as the Khambuwan, Limbuwan, and Magar Liberation Fronts, claiming to speak for Rais, Limbus, and Magars respectively, which have never sought electoral approval. Suresh Ale Magar, an outspoken proponent of ethnic rights, established an Akhil Nepal Janajati Sangh or All Nepal Nationalities' Organization (ANNO) in English: unlike NEFIN, it is not a federal, officially non-political body, but is, on the contrary, a unitary organization aligned with the Maoists. After repeated arrests and releases Suresh Ale Magar went underground; he was captured in Lucknow in early February 2004 and handed over to the Nepalese authorities.

Enormous strides have been made by NEFIN in advancing its political agenda. As with women and Dalits, the government has accepted the need for a commission to look after their interests. In 2002 the National Foundation for the Development of Indigenous Nationalities (Adivasi Janajati Utthan Rastriya Pratisthan) was set up and Professor Sant Bahadur Gurung, a development sociologist at Tribhuvan University, became its head. It has initiated a series of projects to do with preservation of languages and cultures, providing education to backward communities, preserving indigenous knowledge, and so on. Professor Gurung points out that of the 59 identified Janajatis, only 43 were actually recorded in the 2001 census. Those who were recorded make up 37.2% of the population, so it is reckoned that the total indigenous population may be as much as 42%.

The principle of reservations – i.e. positive discrimination by means of reserving positions for Dalits, women, and Janajatis – was accepted by the post 2002 government of Surya Bahadur Thapa. This is one of the achievements of his government that his website claimed credit for, at a time when there were rather few such claims that could be made. In order to prevent all the Janajati reserved places being captured by “advanced” groups such as the Newars and Thakalis (it is said that all six places reserved for Janajatis at the Maharajganj Teaching Hospital went to Newars when they were first introduced). The list with its subdivisions is given below. The member bodies of NEFIN acquire considerable official legitimacy by the introduction of reservations. In order to qualify for admission under such reserved place schemes, candidates will need an official certificate showing that they are a member of the requisite group, and they can get the certificate from the offices of the Janajati body they claim to belong to.

Common Assumptions

What all involved – political parties, pressure groups, revolutionaries – seem to agree on is an essentialist view of the cultural divisions they argue over. All seem to agree that everyone in the country

- (1) belongs to one and only one ethnic or caste group;
- (2) is born into that group;
- (3) cannot change their group.

There are two further assumptions, one factual and one normative, that everyone makes:

- (4) though some groups are big and others small, they can, for practical purposes, be treated as groups of the same logical order;
- (5) all groups should be treated equally.

For outside, sociologically inclined observers these assumptions are highly contestable. They can in no way be accepted as an analytically adequate description of how the social system operates or operated, though they *do form* part of the folk model by which people guide their own conduct. Assumption (3) was refuted by the Ranas themselves, who raised their status from ordinary Chetri to that of the royal caste, Thakuri, by adopting the title ‘Rana’, forcibly marrying their sons and daughters to the children of the king’s family, and adopting a prestigious Rajput genealogy linking them to India (Whelpton 1991: 187, 190-1). There likewise have always been not infrequent examples of intercaste marriage or concubinage, with the offspring absorbed either into the father’s or the mother’s caste, depending on the circumstances of the case. It is precisely because of this that the Chetris have become the largest and most widespread caste in Nepal. Assumption (4) creates many problems for analysis. Many small castes have in fact already disappeared.

Assumption (5) marks a radical departure from the traditional situation, but it is today generally agreed that the old ideology by which the country’s numerous groups were hierarchically ranked according to Hindu notions of purity backed by the state must be rejected. For the ethnic activists, introducing real equality implies removing the special status of Hinduism and introducing measures of positive discrimination to overcome the entrenched, privileged position of the Brahmans. For those who oppose them it is enough

that such privilege is no longer upheld by law, and the status of Hinduism in the Constitution is a simple reflection of the majoritarian position of Hindus in the country. Needless to say, these statistics are bitterly contested, with non-Hindus, especially Buddhists, claiming that the number of Buddhists has been deliberately massaged down in successive censuses, and that Hinduism has been used as default category into which anyone who does not insist that they are something else is placed.

The argument about equality between what were previously hierarchically ranked social units reappears *within* different groups. For example, the Gurungs had two ranked divisions within them, a ranking that is now strongly opposed by many Gurung activists, who seek to deny that they ever existed (Macfarlane 1997). The Newars of the Kathmandu Valley have a complex caste hierarchy of 20 or more castes in the largest settlements (Kathmandu itself, Lalitpur, and Bhaktapur) (Gellner and Quigley 1995). Newar cultural and ethnic activists have long sought to bring about more 'unity', so there was some dismay when, in the aftermath of 1990, many Newar castes, and especially the largest, peasant caste, the Jyapus, began to organize caste associations which threatened that unity. This soon generated other organizations (Newa De Dabu, Newa Mahaguthi) that attempted to bring together all the different Newar organizations, including these caste associations, on the basis of equality, just as NEFEIN aims to bring together all Nepal's 'nationalities' (indigenous people/*Janajati*) on the basis of equality.

Similar arguments setting those who wish for unity on an individualist basis against those who argue that true unity can only be achieved by the recognition of previously stigmatized constituent parts occur both at the national level and at the intra-ethnic level. At the national level, those against granting ethnic rights argue that conceding them would encourage communalism and undermine feelings of nationalism. They are countered with the argument that the best way to build national unity is to strengthen the constituent

parts of the nation, namely the ethnic groups; furthermore, if this is not done, they argue, the inbuilt inequalities of the present situation will eventually lead to the emergence of ethnically based violence as in Sri Lanka or ex-Yugoslavia. In exactly the same way, Newar ethnic activists who are unhappy at the emergence of caste associations within the Newars, are faced with the argument that only by recognizing the distinct and previously stigmatized identity of large groups like the Jyapu cultivator caste can their sense of identity as Newars and as Nepalis be properly founded; and there is, it is argued, no contradiction or conflict in asserting, and feeling pride, in these various identities, each of which operates at a different level (Gellner 2003). Similar movements have arisen among those Rai sub-groups who feel marginalized, and some of their activists would like representation as independent small ethnicities with NEFIN.

Despite these differences, everyone agrees, as noted above, that ethnic groups and castes exist. The facts that there are numerous intermarriages, that there are many marginal cases of people who do not fit easily into one of the categories, or belong to more than one, are treated as insignificant exceptions. Nationalists still argue that there is a common culture (at least in the hills, if not extending to the Tarai), but they do not carry the argument against the ethnic activists onto a more conceptual level. They do not try to argue that hybridity is a more appropriate concept for understanding the history and development of Nepal, that ethnic or caste purity are ideological figments that hide a history of mixture. Instead the debate in Nepal is largely about statistics: are more than 90% of the country Hindus? or is the true figure (including only Brahmans and Chetris) 30%? It was only after the census of 1990 that figures were released for different castes and ethnic groups, and debates over the figures are bound to intensify.

How far should the state go in recognizing different cultural groups and giving them rights as groups? The state has already recognized that the country is divided into 69 castes and ethnic groups

of vastly differing sizes. Some have their own language and some do not, but all are assumed to have their own cultural traditions worth representing in a National Ethnographic Museum. The question now, however, is about much more than just cultural recognition and respect. Resources and jobs are at stake – if sufficient peace can ever return to make the jobs worth having. The issue now is how to implement, and in exactly which spheres to implement, policies of positive discrimination. And one should bear in mind here that the Dalits are by the far the most disadvantaged group, and the one most in need of reservations.

What can be done – at the same time as addressing these historic injustices and imbalances – to maintain a common national identity? In the Nepalese case a new national tradition might usefully include a stress on both cultural and biological hybridity. If the elite could abandon its traditional concern with purity, there might be much to gain. Whelpton (1997: 73) has suggested that 'it is time for the royal house "to reclaim its Magar heritage", in other words that it might acknowledge that it is descended not only from prestigious Rajput forebears in India, but also from the Magar 'tribe'. Gurung heroes of Nepali history, written out of Panchayat history books, could be reincluded in official accounts (Onta 1996). Primary teachers in government schools could be permitted to use the local language alongside Nepali in order to explain the (Nepali-language) school textbooks, as currently happens in the one existing Newari-language school.

Another radical move might help. In order to defuse the numbers game, people could be permitted to tick more than one box in the questions on ethnic or caste identity or on religious affiliation; for many people ticking both 'Hindu' and 'Buddhist' boxes would be a truer reflection of their actual religious practice, and given the encouragement to do so there might be many who would prefer to claim a dual ethnic identity, or none at all (like the pre-conflict Bosnians who returned their ethnic group in Yugoslav censuses as

'human being' and the US citizens who write 'earthling'). This would require the brave conceptual leap of reversing millennia of stress on the value of purity and the shame of mixture, but it would have the virtue of carrying the battle effectively against those who accept the traditionalist model of separate groups while rejecting its hierarchical and integrationist components. Such a strategy would also have the merit of reinforcing an old, relatively tolerant South Asian tradition of making matters of linguistic and cultural choice effectively the decision of the household, subject only to local opinion. At a conference on democracy and inclusion in Kathmandu in April 2003 I repeated some of these suggestions. To my surprise, I was attacked in a series of letters from Janajati activists to the *Himalayan Times*, which reported my talk as frontpage news under the headline 'Oxford scholar urges Nepalis to come terms with "hybrid past"'. I was surprised because I had taken myself to be attacking high-caste pretensions to purity and difference. But of course ethnic mobilization also requires the establishment of difference. The question is, whether it is to be a mobilization which simultaneously strengthens the nation, as its spokesmen (and they are usually men) usually claim. What is clear is that the wider society has yet to accept the principle of reservations, even if politicians have. What the politicians have granted is now being fought over in the courts.

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