The Dichotomy of Rights and Development: A Rights-Based Approach to Development in Nepal

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Abstract

In the post-constitution period of political and social upheavals, the process of inclusion and the role of democratization and federalism made new spaces for deliberations on caste/ethnicity, ethnic identity and rights quandaries, credibility and questioning of state authority and the challenge of societal hierarchy and conventional governance patterns in Nepal. The 'Instrumentalist' either self-aggravated exaggeration of political, social, economic, regional differences or the historically existing differences or discriminatory, exclusionary socio-economic and political practices being followed in Nepal led ethnic and marginalized caste groups elites and activists to be in 'primordial' row and struggle to scuffle for their group's better position. Concurring to ethnographic representations of ethnic thoughts, actions and claims as socio-cultural veracity, this paper argues that the ethnic and marginalized groups demand for more rights, autonomy and better life that can be resolved with the adoption of *rights* based model of development via affirmative transformation of power relations between the rights holders (marginalized groups) and the duty bearers (state institutions). Both duty bearers and the rights holders will have a fervent role in assuring rights and development. This will enable to manage ethnic rows and ethnic/caste identities that can be linked with development by making institutions more inclusive and promoting social interaction between different communities and institutions.

Keywords: *Social earthquake, zealous participation, primordial, neo-patrimonialism*

Introduction

Nepal was a petite, pure, *non-modern* country till 1950s. Nepal's independent isolated status meant that it was deprived of the fruit of modernity and consequently Nepal has been persistently undemocratic and politically unstable with the hegemony of few elites in the socio-cultural and political system. Until the early 1950's, under the banner of Hindu Shah

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Kings, autocratic feudalistic Rana oligarchy held absolute control of the government and the socio-cultural system. During the period before 1951 and afterwards, in non-modern *caste-ridden* and *priest-ridden* asymmetrical country, landholding as a symbol of power played a central role in determining people's social, political and economic status. The asymmetrical allocation of farming land is the consequence of centuries of despotic rulers treating the land as their private property. Dominant groups close to the ruling elites held large tracts of land, but those who were not close such as Dalits and many ethnic groups became the excluded groups forever. However, some other groups who tended to lose land due to debts, poverty or any other socio-economic or political reasons (official confiscation of land) had not sufficient income to subsist. Mainly the ethnic groups, Dalits, and in some cases, many Brahmin-Chhetri had to depart and look for occupation and land in Myanmar, Bhutan, Darjeeling, Sikkim, Assam and the northeast Indian states (Gellner, 2007). Among the persistently excluded groups there is a high level of poverty and low level of development indicators--economic, education and health with very low access in productive resources, national policy and governance structures. Among multiple challenges, one of the challenges is to preserve their ethnic cultures, regional identity, languages and traditions and progress ahead amid ethnic stereotypes.

In 1951, after a popular revolt led by the political parties, the Rana oligarchy came to an end and democracy was established till 1961 when multiparty democracy was replaced by party less autocratic Panchayat regime under the monarchial autocracy. The anti-Panchayat struggle spearheaded by the political parties and the restoration of democracy in 1990's energized several social forces that were otherwise latent in the Nepali society which remained subjected to various forms of social, economic and political discriminations and exploitative practices based on caste, ethnic, religion, region, economy, gender bigotry and political ideology. Dahal (2000) states that the poor and marginalized people in Nepal were never the real beneficiaries in development and the elites living on the top have always remained the true beneficiaries of all development models. Nepali culture in essence is strictly hierarchical and inherently built–with the values of ambiguities and contradictions in everyday speech and work and because of these perpetuating cultural values; the Nepali society has failed to cross the barriers of *caste, family* and *kinship*. That's why amid all political changes, the governance system remained the reflection of non-modern feudal legacy; the traditional elites have occupied key positions in every institution of the country.

The restoration of multi-party democracy and the rise of ethnic issues in the 1990s, and in post-republican period after 2008 polarized the Nepalis along ethnic issues that were largely unaddressed during the Maoist insurgency. Culturally, socially, politically and economically secluded ethnic groups and minorities, the post-insurgency ethnic movements, *social earthquake* (protests) and the challenges in pacifying ethnic issues were hoisted as a serious political topic. Whelpton (2005) states that it was only after the political change of 1990 that ushered in an exclusively new situation, and fired the starting gun on ethnicity. *Madhesi* (Terai people), Dalits and many other *Janajati* (ethnic groups) movements increased noticeably because of slackening of restraint on freedom of expression and political activity. The terms such as *Madhesi*, *Janajati* and *Dalits* appeared and were used extensively and accredited which led to the escalation of the debates on caste/ethnicity and ethnic identity and set out to differentiate and shape a new social system one that is non-hierarchical and unbiased, challenging the symbols of nation, subversively apposite and recodify signs, and look within their own group's history/traditions for symbols of unity around which their community may be re-imagined and congregated. The issue of *ethnicity-building* helped in brisk ethnicization of the country. New ethnic identities were forged, new associations set

up, and new allegations made in social, political and economic sectors. The kind of national identity that was propagated in schools and through government organizations with autocratic past legacy was noticeable as awfully exclusionary. Ethnic identities were presented by ethnic groups' common relationships to the state and a shared experience of dispossession that transcends their cultural differences. Gunaratne (2002) argues that the sharpening of identity and political articulation of ethnic group in Nepal is a result of complex factors created and recreated over the period of time.

Amid social tensions, a passionate urge toward equality, social justice and development in the context of society and polity assumed importance with the increased realization amongst the concerned westernized social thinkers that the *New Nepal* that was soon to be realized after the establishment of republican system in 2008, must appear to be noticeably different from the old Nepali society bereft of the deeply backward and social practices which had held the people backward and poor. Hence, the demand for equality with other caste/ethnicities and races, more rights and autonomy within the Nepali society and polity powered by the impregnable willpower and courage was felt for abolition of political, economic and social discriminations. These concerns were enshrined in the Nepali constitution of 2015.

However, achieving shared values and reflections of cultural aspirations of all groups is incalculably difficult in a multiethnic country amid the prevailing past feudal legacy and elitism. The ethnic/caste type castes and emergence of new ethnic/caste elites is also the crux which is a simplified and often ambiguous representation of ethnic group and their history. But, many are idyllic that the new republic has the much-heralded constitution got after years of wrangling. Some see the constitution as progressive as it provides for quotas for different groups, including women, indigenous communities and low-caste Dalits to participate in the constitutional bodies. But some, for varying reasons, remain intensely unhappy with it - and its birth-pangs have been sadistic. Some say that this constitution is not the way forward and may incite instability and violence. There are voices that the state must immediately address the grievances of those opposing it as the country's future depended on it. In the new position, federalism was adopted because of the diversity of Nepal split by divisions such as ethnicity, high- and low-caste, Nepali-speaking vs. speakers of indigenous languages, hill ethnicities vs. lowland ethnicities, and gender divisions, with high-caste men from the hills almost absolutely dominant up to now. The Nepali society was deeply polarized on whether the states should be ethnically delineated. Many members of traditionally marginalized groups fear that the constitution will still work against them as it has been rushed through by established parties dominated by high-caste male leaders.

Some ethnic communities are displeased at the boundaries of the new provinces although these may be subject to change. Although this discontent is prevalent in both hill and Terai, this disquiet has been especially intense in the Terai where recent years have seen tensions between lowlanders and highlanders who have migrated there over recent decades. In the western Terai indigenous *Tharus*, are unhappy to share their provinces with hill districts that they fear will predominate. In eastern Terai, the *Madhesi* communities complain they have always been denied equal rights as per hill people, faced discrimination and lack of acceptance by the Nepali state. Legally, for the ethnic minorities human rights are universal, as civil, political, economic, social and cultural, rights belong to all human beings, including members of minority ethnic groups. Ethnic minorities -- both the individuals belonging to ethnic minorities and ethnic minorities as groups ought to enjoy certain human rights specifically linked to their ethnic status, including their rights to development, to maintain

and enjoy their culture, religion, and language free from discrimination of any kind, if not, there are higher possibilities of hostilities and volatility. Consequently, ethnicity, ethnic conflicts and ethnic rights necessitates study in the historical and in the sense of rights and development not only because it is one of the appealing nucleuses of anthropology for examining human similarities and differences from physical and cultural point of view but also to address the present debates, issues and crises, issue of elitism and predicaments on ethnicity though it is a new term conversed in recent times in Nepal.

Pedestaled on the secondary data congregated from secondary sources-books, journals, periodicals from internet source, the key objective of this paper is to appraise ethnic quandaries and debates in Nepal, ethnic and marginalized groups demand for more rights, development and the potential approach to positive transformation of power relations for a sustainable peace explainable on the basis of a set of conceptual conjecture on socio-cultural, regional, economic and political relations (based on Rights Based Model)on demand for more rights, equality, development, and positive transformation of power relations between rights holders (ethnic/marginalized groups) and duty bearers (state institutions).
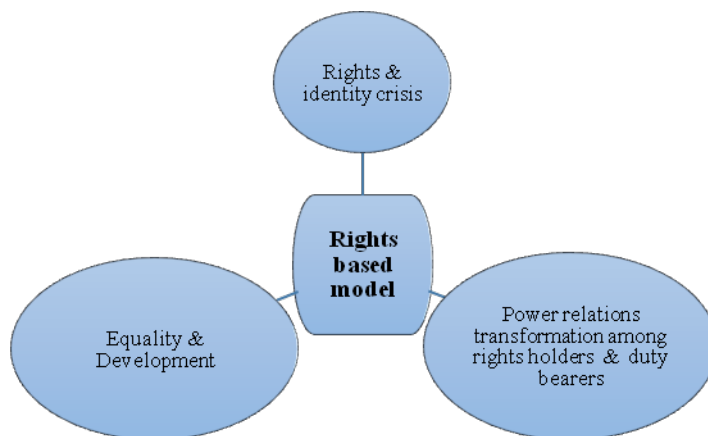
Deliberations on Ethnicity and Ethnic Identity

Barfield (1997) states that ethnicity is a biological perpetuating unit. Vermeulen and Govers (1994) refer to ethnicity as the consciousness of (ethnic) culture. Thus, the traditional static approach shifted to interactional approach to ethnicity. Regmi (2003) affirms that the term ethnicity was first time used around 1953. Popeau (1998) suggests that 'ethnicity' and 'race' are not popularly regarded as mutually exclusive concepts as 'ethnicity' is deemed to be politer and less controversial term for 'race'. Since then, the concept of 'ethnicity' has been altering in terms of its meaning and usages.

The concept of the *ethnic*, by the 1960s, was beginning to be replaced by, perhaps less embarrassingly colonial, 'ethnic group'. The incident that most evidently manifested an anthropological paradigm shift, from the study of 'tribal society' to the social constructionist model of 'ethnic groups' which is existing at present, is the publication of Fredrick Barth's Ethnic *Groups and Boundaries* in 1969. Barth identified four theoretical features of the conventional, taken-for-granted model of the corporate, culturally distinct ethnic group;

first, such a group was biologically self-perpetuating; second, members of the group shared basic cultural values, manifest in overt cultural forms; third, the group was a bounded social field of communication and interaction; and fourth, its members identified themselves, as were identified by others, as belonging to that group. He argues that ethnicity denotes ethnic 'we feeling' of ethnic group members and can said to exist when people claim a certain ethnic identity for themselves and are defined by others as having that identity. Identification with and feeling part of, and ethnic group and exclusion from certain other groups, are the features of ethnicity.

Ethnicity may be objective or subjective, implicit or explicit, manifest or latent, or acceptable or unacceptable to a given grouping or category of people (Seymour-Smith, 1986). Ethnic identity development comprises self-categorization in, and psychological connection toward, an ethnic group(s) and is portrayed as part of one's overarching notion. Its development is depicted as a course of action of the construction of identity over time, due to a combination of experience and actions of the individual and includes gaining knowledge and understanding of in-group(s), as well as a prudence of belongingness to an ethnic group(s). Ethnic identity is occasionally interchanged with, held distinct from, or well thought-out as overlapping with racial identity. This incongruity in the distinction (or lack thereof) between these concepts may originate from the incongruity of definitions of race and ethnicity as well as the historic conceptualization of models and research surrounding ethnic and racial identity. From anthropological perspective ethnicity can be lost, discovered, resurrected, or simply invented with foreign interference. Political leaders who follow hard-edged agendas of power can easily exploit culture, myths, and historical memory of the ethnic communities e.g. Rwanda, Bosnia, Sri Lanka, Burundi, Kurds, Baloch in Pakistan, etc. Gellner, Pfaff-Czarnecka, and Whelpton (1997) state that the socially constructed notion of ethnicity has very different meanings for state, society and individual and that the ethnicity at work is no longer the same as it was before.

Ethnic Identity, Socioeconomic and Political Dynamics

The failure of the Nepali state in properly accommodating the competing interests present among the diverse ethnic/caste groups, persistence of low levels of development in ethnic and Dalits and many other communities and the success of Maoist insurgent movements in creating *New Nepal* are believed to be amongst the trigger factors for the emergence of ethnic activism. Devkota (2007) states that since 1951, Nepal witnessed the growth of rent seeking elites and increased income inequality, in spite of huge national and international expenditures. The initial years in the fifties, after emancipation from a very autocratic regime of more than 100 years were particularly chaotic. The socioeconomic development of 1961 to 1990 was very sluggish, regionally biased and unproductive, which led to mass poverty. The socio-economic progress after 1990 seems encouraging but the real achievements have been overshadowed by the weakness of the politico-economic character of the ruling classes. He argues that a politico-economic structural change is required to enhance village and rural economy along with human and social capital enrichment strategies that will pave the way to break the poverty cycle.

Social dimension aspect is a multivariable nature. According to census (2011) more than 126 caste and ethnic groups, 123 different spoken languages, including some foreigner are living in Nepal. For the sustainable economic development there should be harmony,

cooperative and respect each other and this will be possible when their participation in governing level from grass root to high government policy level more or less proportionate. The Nepal Multidimensional Social Inclusion Index (2014) reflects the inclusion status of the many and varied caste/ethnic groups of Nepal. The data obtained for different caste/ethnic groups shows that the caste Brahman and Chhetri whether Hill and Terai, get high score while Terai Dalit and Muslim showing poor status in social dimension.

Table 1:

Social Dimension Indices by Broader Social Groups

Caste/ethnicity	Educational Index	Health Index	Social Dimension Index
Hill Brahman	0.6826	0.6771	0.6799
Hill Chhetri	0.5603	0.6087	0.5845
Terai Brahman/Chhetri	0.6805	0.5211	0.6008
Hill Dalit	0.4294	0.5414	0.4854
Terai Dalit	0.2733	0.3927	0.3330
Hill Janajati	0.5067	0.5926	0.5497
Terai Janajati	0.4716	0.4467	0.4592
Muslim	0.3113	0.4001	0.3557
Nepal	0.5086	0.5632	0.5359
Coefficient of variation	31.0333	19.700	23.9056

Source: Nepal Multidimensional Social Inclusive Index-2014, CDSA, Tribhuvan University

Embedded with social inclusion, the *ethnic question* has become a development issue and the developmental idea of indigeneity has consolidated both common and ethnic elites. Identity politics has become a dominant ideological force, rapidly unraveling the course of radical political developments and ethnic activism in Nepal. The kinds and medium of transaction run through events, discriminations, and opportunity structures. In a process of boundary formation, it continues, displaces or creates a new sort of image, ideology and institutional boundaries of ethnic groups. The existing forms of ethnic activism have not only become a regular feature, for staking their due claims on the ever dwindling resources as also in the emerging development paradigm within Nepal. No other issue has assumed so serious importance than the ongoing and seemingly obdurate tragedy of ethnic tensions leading to high degree of activists' activities and multiplicity of activist groups. On the one hand, different ethnic, Dalits, *Madhesi* and many other groups actively claim that they are engaged in their struggle for recognition, political and economic rights while others maintain that ongoing dissatisfaction continuously have challenged the writ of the state and control over its existing territory, governance structures, and the ruling political elites. Ethnic turbulence can be traced back mainly after the post-democratic era in 1990 when the

government built the institutions of government control and consolidated power and the more recent emphasis on greater democratic governance and free media access. Further, during the autocratic rule before 1990, the hegemonic administration systems, arbitrary delimitation and interference in the areas inhabited by different ethnic groups as a result of autocratic policies adopted by the Rana and Panchayat rulers indubitably aggravated the feelings of ethnicity and set off the ethnic activism.

After the political revolution of 2006 and the consequent establishment of democratic republic as every community felt determined to drive maximum gains by their participation in the electoral politics, the divisions within the Nepali society came to the fore which posed serious challenges to the stability and democratic process of governance. Democracy, much to the contrary of widely held beliefs, instead of uniting the various communities rather widened the divide amongst people as the space was already very limited for their *zealous participation* for enhancement of their socio-economic status and empowerment. In order to promote their respective community interests, they not only fell upon all the narrow and divisive factors which came handy to them in their quick rush to be the first to derive benefits of the newly launched inclusive development schemes but also to keep others out of the reach of this so-called development process. The charade of unity witnessed during the democratic struggle gave way to disunity whereby *ethnicity* amongst others was accorded prominence for strengthening one's claims to a most favorable treatment.

The political parties provided an encouraging environment for ethnic and marginalized groups (e.g. Dalits) and their organizations to nurture but it was only after these groups expressed their craving for relative representation, inclusive contribution and a share in national mainstream that the conventional political parties started slandering these forces, formulating different political mechanisms, but it was already too late. The ethnicelites in Nepal not only wanted socio-political modifications but economic participation and development of their regions at a broader range. There was an astounding ethnic awareness, yet the political mobilization of ethnicity would not have been doable without the political incentives to trigger it. But, the concept of ethnicity which has now wide currency is still far from being universally acknowledged in Nepal in the wider population. The mid 90s Maoists insurgency transformed the nature of the ethnic conflict into a *fusionist* one by forming the separate organizations of different ethnic groups.

The Instrumentalist approach on ethnic tension and conflict reckon that ethnic conflict does not emerge directly from differences in ethnic identity; rather ethnic conflict arises only when ethnic identities are politicized or manipulated to generate political and socio-economic advantages for an ethnic group at the cost of depriving or neglecting other ethnics (Collier & Hoeffler 2004; Chandra 2004). Instrumentalists approach point to factors other than ethnic identity to explicate ethnic conflicts e.g. security concerns (Posen 1993), competition and inequality (Gurr, 1994), and greed (Collier & Hoeffler 2004). Ellingsen (2000) argues that sentiments of discontent support ethnic conflicts commonly motivated by grievances and frustration. Anthropologist Geertz (1963) states that as ethnic differences under primordialism are ancestral, deep, and irreconcilable, ethnic conflicts arise inevitably from ancient hatreds between ethnic groups and mutual fear of domination, expulsion or even extinction. By highlighting differences in ethnic identities as the introductory source of inter-ethnic hatreds, fear, and conflicts, primordialist bicker that, ethnically heterogeneous states will inevitably experience ethnic conflicts. The dimensions of *instrumentalist* force cannot be ignored mainly a rise of grievances after the fall of the monarchy in 2006 and the power vacuum created in Nepali politics. The political parties, ethnic organizations and

ethnic elites hurried in to fill up this vacuum. Maoist administrative division of the country based on ethnic lines validated their excessive reliance on ethnicity to achieve ideological strategic objectives (Hardin, 1995). While analyzing various motivations of ethnic conflicts in Nepal, the *instrumentalist* approach (underdevelopment, politicization, manipulation, political, socio-economic deprivation) and *primordial* logic that ethnicity is a collective identity deeply rooted in historical experience, identity, biological traits and kinship that look convincing.

As Nepal remained a unitary state since the time of the unification of petty principalities in the eighteenth century, in the post-republic period, the dogma of state restructuring on the basis of ethnic federation remained highly disputed and controversial from the beginning and it plagued state restructuring debate. The critical sources of identity and obligation mediated and perfected through the predominance of kinship posed serious dilemma for ethnic groups to accept the existing condition as they discovered their social values very different and hence difficult to reconcile with the level of regimentation by other groups. For the conventional ruling elites, as such, the democracy and state restructuring appeared to be not only a recent but an external imposition and also was found incompatible with the demands of ethnic state restructuring with effective governance. For ethnic people, the state as an organization has remained historically alienated and to whom personal ethnic ties had been most important, the requisite levels of institutional behaviour and the long-term generalized reciprocities that state maintenance requires proved to be very farfetched. The idea of state restructuring and statehood cherished by the ethnic elites who were waiting to take over from the autocratic rules, their claims and qualifications to rule, the goals that they had set for themselves to achieve and the ideology of anti-autocratic nationalism that these elites espoused was seen in the form of ethnic rows.

Ethnic elites were certainly bound up with the continuance of the state in the societies. The hurriedness and the sense of eager with which these elites embraced the state, obscured many of the genuine concerns of the great mass of ethnic people in their societies. The danger that the state might operate disproportionately to the benefit of particular ethnic groups within its territory came to be felt with the apprehension of high degree of ethnic dismay for control over the state under the situations of weak socio-political structures and inadequate values. *Neo-patrimonialism*, the maintenance of reciprocal relationships which is typically and essentially of a personal kind between the leaders and the followers within the overall hierarchical structure of the state has been readily adapted to bridge the existing gap in terms of social values by use of short term and individual reciprocities to compensate for the absence of general and long term visions. Further, this very ideology of state power that these post democratic rulers; the conventional and ethnic elites adopted increased demands and widened the existing gap between promise and performance. The huge wastage of already scarce social and economic capital by misconceived and poorly implementation of ambitious schemes of state-led nation building and socioeconomic development schemes forced the deprived and marginalized communities for a rethink. In broad-spectrum attuned to ethnographic representations of ethnic thoughts, actions and claims as socio-cultural pragmatism, it can be deduced that institutionalized ethnic rows and crisis while ensures that ethnic groups can very well express their demands within the pluralistic democratic society, it also requires that such assertions are done in a serene manner and not resort to any form of chaos, which can better serve their interests. But since these quandaries have also remained unresolved, the search for newer ways of crisis management through some forms of negotiation and mediation to seriously engage the various ethnic groups irate with discontent, for crisis resolution and establishment of a political environment for rapid

economic development is also essential. Hence, there is an urgency that suitable mechanisms are put in place whereby not only the grievances and fury of the ethnic rows and crisis are minimized but also their rights as enshrined (or to be amended) within the constitution are protected, ensuring equal justice to them.

Higher Goals of Ethnic Equality and Development: Shift from Welfare Model

Anthropology's cumulative knowledge of human cultures, and of human mental and physical capacities across all populations, types, and social groups, attests to the universality of the human capacity for culture. This knowledge entails an ethical commitment to the equal opportunity of all cultures, societies, and persons to realize this capacity in their cultural identities and social lives (American Anthropological Association, 2016). However, the environment in Nepal is burdened with antagonism and rows which has been (in the past) or in present is perpetrated by state and their representatives, institutions, and other actors. That antagonism limits the humanity of individuals and collectives. Anthropology is committed to the promotion and protection of the right of people and peoples to the full realization of their humanity. This implies starting from the base line of the Universal Declaration of Human Rights and associated implementing international legislation, but also expanding the definition of human rights to include areas not necessarily addressed by international law. These areas include collective as well as individual rights, cultural, social, and economic development, and a clean and safe environment for all including the ethnic groups. But, human rights are not a static concept. Anthropological understanding of human rights is constantly evolving as anthropologists come to know more about the human condition, human rights and the development efforts for marginalized one.

However, mere rights without development will be futile; hence, rights embedded tangible development will ensure sustainable rights for the marginalized ethnic groups. The inclusion of human rights into development discourse has brought along a certain language of rights. This brings a moral resonance to development rhetoric and makes it hard to avoid in today's discourse. Rights are defined as entitlements that belong to all human beings regardless of race, ethnicity, or socio-economic class; all humans, therefore, are rights holders, and it is someone's duty to provide these rights (Nussbaum, 1997). As an approach to ethnic equality and development, rights-based approach emerged as a novel approach to development in the post-cold war era that ended the dichotomy of right versus left as also, which defined power of the state and of the individual in aspects of society based on political affiliation (Harris-Curtis, 2003). In the post-cold war era many development agencies and human rights organizations began to affirm their strong belief in the western idea that rights are asserted through responsibilities, duties, transparency, trust, and accountability, which led to the development of the rights-based approach. The World Conference on Human Rights in Vienna 1993 (sponsored by United Nations), issued the Vienna Declaration and Programme of Action, where the link between democracy, human rights, sustainability and development was emphasized. This new emphasis on the linkage between *human rights* and *development* is said to have forced policymakers to go in for incorporation of the rights-based approach into their policies of equality and socio-cultural, economic, regional and political development. It was supposed that this can help achieve a positive transformation of power relations among the various development actors, the people and the state. Under this rights-based development model, there are only two stakeholder groups --*the rights holders* (who do not experience full rights) and *the duty bearers* (the institutions obligated to fulfill the

holders' rights). Gneiting, Bruno-Van Vijfeijken, and Schmitz (2009) state that Rights-based Development models aims at strengthening the capacity of duty bearers and empower the rights holders.

In 2003, under the United Nations benefaction, various organizations and agencies in their meeting agreed on a common understanding of a human rights-based approach, which held up six main principles, such as, *Universality and Inalienability, Indivisibility, Inter-Dependence* and *Inter-Relatedness, Equality and Non-Discrimination, Participation and Inclusion, Accountability* and *Rule of Law* as the essential components of the policy of adoption of human rights in development work. As the United Nations emphasized on these steps to a rights-based approach to development, many leading bilateral donor agencies, and international NGOs began adopting them (UNDP, 2006). This also represented a shift from the welfare model, which was being followed as a Western developmental practice, under which poverty was defined as the absence of a public good or knowledge and that with the availability of the absent good, either from the side of the state or NGOs, poverty can certainly be alleviated or development will occur. Though under this welfare model, billions of rupees have been spent, it showed limited achievements but not full success as was expected. The gap between the rich and poor in Nepal has widened and about one-quarter (25.2%) of its population still live below the poverty line (Nepal Economy, 2017).

Welfare model came under spiky criticism as it was felt it lacked mediums to hold governments accountable for their various actions or inaction and its failure to address the governments' inability in fulfilling their citizens' rights either due to funding or knowledge. It also had constructed the poor as mere objects of charity, predetermining their roles in civic society. Due to the failures of the welfare model, the shift was made to a rights-based approach to development. Under the new model, the poor and marginalized groups were constructed as actors or rights holders instead of being constructed as charity as before. Under this rights-based approach, the poor and the marginalized groups are to be helped to overcome the obstacles that were blocking their rights and the governments to be equipped with the tools and training to provide these rights. As the aim of rights-based approach to development is to increase the capacity of both the duty bearers and the rights holders, under this capacity building thrust, the ability of individuals, institutions, and societies to perform functions and solve problems, will be increased.

The key principles which should be kept in mind while trying to increase the existing capacities should be aimed at ensuring national engagement and ownership, and adjust Nepal's needs in keeping with the pace of development may be by amending the constitution. It is recognized that the duty bearers and the rights holders both have an active role in development. In the words of Sen (2004), the duty bearers are to remain accountable for respecting, protecting, and fulfilling human rights while the rights holders need to ask what they should do to help promote and defend their freedoms, which will keep the governments accountable for creating sustainability. Further, the social contract theory advocated rights such as life, liberty, and property which belong to the individuals and not to society ensured within the Nepali constitution, and provide the rules of explaining and protecting individual rights as human rights as they are inherent, universal and fundamental. This rights-based approach also advocates an inherent relationship with downward accountability in relation to development. This ensures a power dynamic in development by focusing on downward accountability and ways of managing downward accountability mechanisms with the potential in practice to contribute to the effectiveness for ensuring the intended beneficiaries who are being allowed their rights (O'Dwyer & Unerman, 2010). In

addition, within this approach, there is a natural linkage between socio-cultural, economic, political and regional development and rights and there can be frequent pressure on Nepali state and government to be involved with issues of human rights as well as all-round development of marginalized ethnic groups. Within the rights-based approach to development, internationally agreed upon human rights is the responsibility of government to provide but also within this theory, development of marginalized groups can no longer be viewed as a *gift* or a *need*, but rather a right that state and government is held responsible for.

Conclusion

The emergence of democratic environment between the end of the repressive Panchayat era and the downfall of Hindu monarchy and establishment of democratic republic (between 1990-2015) till the promulgation of new constitution in 2015 and afterwards allowed new socio-political-economic and liberal constructions to take shape and emergence of new debates and ethnic rows and crisis on inclusive federal governance as envisioned by marginalized ethnic and caste communities. Among the various motivations of ethnic crisis, the - *instrumentalist* – socio-economic deprivation, renunciation of human rights in the past, underdevelopment, politicization, manipulation, political and *primordial* reckoning ethnicity as a collective deeply rooted identity in historical experience, identity, biological traits and kinship that looks more persuasive. This paper concludes that rights and development are part of the same coin. Rights without tangible socio-cultural, economic, economic, political and regional development will be worthless. Rights embedded tangible development will ensure sustainable rights for marginalized ethnic groups. The enduring nature of the ethnic rows in Nepal can be resolved with the adoption of rights based model of development, as this will ensure respect for the rights of marginalized communities and will also facilitate trust and mutual respect for each community residing in their respective regions.

The rights-based approach's emphasis on the linkage between human rights and development will motivate policymakers to go in for incorporation of the rights-based approach into their policies of equality and development for secluded groups. This can help achieve a positive transformation of power relations among the *rights holders'* ethnic and marginalized group members who have not experienced full rights till now and *the duty bearers* (institutions obligated to fulfill the holders' rights) which will strengthen the capacity of duty bearers and empower the rights holders along with their duties and responsibilities. Consequently, ethnic rows can best be managed and ethnic/caste identities can be linked with development by making different institutions more inclusive and promoting social interaction between different communities and institutions.

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