CDC Journal, Year 31, No. 45, December 2023, DOI: https://doi.org/10.3126/cdj.v31i45.68983 Received Date: December 01, 2023 Accepted Date: May 22, 2023

Theoretical Underpinnings of Power Sharing in Nepal

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Abstract

Power sharing and power separations have been major concerns for many states during political transitions. Power separation has political and legal roots, and theoretical debates are profound, even in peacetime, as an overarching framework for good governance. Power sharing has become a major tendency in countries where ethnic, historical and political conflicts are accepted as a part of statebuilding. The modern political history of Nepal is the history of power sharing among various actors in the decades of the 1950s, 1990s and 2006. Using a methodological approach of qualitative text inquiry on the literature from various global cases, this paper has analyzed the components of power sharing. Text related to political power sharing and system changes in Nepal after 1950 is reviewed. Managing political transition involves establishing new structures in the state, revisiting the electoral design and accommodating the actors without abandoning their political agendas. This paper explores power-sharing components such as the establishment of new political and bureaucratic structures to support political consensus among former warring parties. However, a grand coalition, a part of democratic power-sharing perspective is not observed in the case of Nepal.

Keywords: *Power-sharing, consociational democracy, conflict management, peace process, institutionalization*

Introduction

During the period of active party politics from 1951 to 1960, three distinct political cultures emerged: traditional authoritarianism, feudalistic inclinations, and a blend of liberal and left-oriented political ideologies. The examination of political instability or democratic setbacks in Nepal is intrinsically tied to these divisions, which serve as a normative basis for analyzing the country's challenges. The transition from a backdrop characterized by traditional authoritarianism marked the integration of democratic principles, fostering

ideals such as freedom of speech and expression. Notably, in 1959, Nepal held a nationwide election, a historic event where representatives were elected to Parliament for the first time.

Saxena's work (2013) adeptly underscores the transformative shifts in Nepal's political landscape, particularly highlighting the profound changes that occurred following the decade-long Maoist insurgency from 1996 to 2006.

Amidst these regime changes, it is imperative for political advancements to reach the grassroots level of society, emphasizing reflective discourse and accountability within both political and social spheres. This paper explores the international roots of power sharing and its implication in the war-to-peace transition and political changes in Nepal after 1990.

In the global history of managing armed conflicts through the adoption of powersharing, it is contextual to set the concern- how Nepal has adopted its political trajectory with the experience of system changes induced by both violent and non-violent movements. This paper aims to review the international power-sharing practices and conceptualize those in the Nepalese context during the regime changes in the history of modern Nepal. On the methodological part, based on the historical trend analysis approach, this paper has been developed through an intensive inquiry of literature related to power sharing, conflict, and constitution building.

Conceptualizing Power-sharing

As per Lijphart (1969), consociational democracy means 'government by elite cartel designed to turn a democracy with a fragmented political culture into a stable democracy'. In a fragmented society where political parties represent organized political subcultures, a multiparty system proves to be more favorable for consociational democracy and, consequently, for stability when compared to a two-party system. For a successful consociational democracy following factors are essential:

- (1) The elites must possess the capability to effectively address the contrasting interests and needs of various subcultures.
- (2) This necessitates their capacity to transcend divisions and collaboratively engage with elites from competing subcultures in a unified endeavor.
- (3) Such collaboration depends on their unwavering dedication to sustaining the system and enhancing its overall coherence and stability.
- (4) Crucially, all of these prerequisites rest on the foundational belief that the elites comprehend the risks associated with political fragmentation.

Consociational democracy presupposes that the elites are not only willing to cooperate but also possess the capability to change the system to create effective spaces. In such a democracy, there are ample chances of cleavages due to a 'high degree of internal political cohesion of subcultures.' The same factor which is essential for the success of consociational democracy can also be a reason for destabilization (Lijphart, 1969).

Consociational democracy may appear to depart from the principle of majority rule, yet it remains aligned with the fundamental tenets of normative democratic theory. In most democratic frameworks, majority rule is the prescribed norm for routine matters when the stakes are relatively low. However, for momentous decisions, such as constitutional amendments, exceptional majorities or successive majorities are often mandated. In cases of fragmented political systems, where a plethora of decisions are deemed high-stakes, the requirement for more than a simple majority becomes apparent (Lijphart, 1969). The grand coalition cabinet, while the most emblematic consociational approach, is not the sole solution for addressing fragmentation within a political system. The defining feature of consociational democracy does not primarily hinge on a specific institutional configuration but, rather, on the concerted endeavor of elites to foster stability within the system.

Walter (2002) aims to determine whether third-party security guarantees and power-sharing pacts actually play a critical role in the peaceful resolution of war. Power-sharing pacts can be considered as 'treaty terms that guarantee main combatants a quota of political, military or territorial control.' The analysis presented by Walter (2002) confirms that third-party security guarantees and power-sharing pacts increase the likelihood of sustainable peace, but there are certainly other factors that play a crucial role in determining the implementation of the peace treaty. Power-sharing arrangements should be enough to ensure a successfully negotiated settlement in the absence of third-party guarantees. This would ensure that territorial and political pacts are met. The criticism for consociational power-sharing for being undemocratic and having an aggregated sense of power was also presented by the author, showcasing that these variables are case-specific and a universal solution can be barely achieved. Additionally, power-sharing pacts are likely to be unstable over time, and a second transition is necessary to consolidate peace over a longer period (Walter, 2002).

Democratization – Power Sharing Dilemma

In the quest for peaceful resolution of power struggles among various political parties, democratization emerges as a favored tool to facilitate reconciliation. Aspirations of marginalized groups seeking liberation, and democratization offer a path to mitigate confrontations between these factions through the agitation of civil wars. The mere conduct of free and equitable elections, encompassing fundamental human rights do not limit the democratic dialogue. The process of democratization involves establishing equilibrium within society, where parties and leaders commit to the electoral process and accept its subsequent results. Sometimes, this commitment may require certain parties to abandon some of their power.

Democracy as a system of governance encompasses diverse elements aimed at harmonizing society and determining the principles by which the state is governed. This system affords political party leaders the opportunity to adjust their promises when the number of seats they hold is insufficient to fulfill their electoral commitments, offering the prospect of re-election. Democracy as a system introduces multiple variables such as representation, periodicity and the participation into the process of government formation. Furthermore, the unequal importance of political positions allows for diverse methods of division and agreement, creating a vast landscape for the allocation of power among the actors that emerged based on ideology, region and ethnic ground in some cases.

Through democratization, parties come to realize that they collectively govern the nation, recognizing that the state belongs to its citizens rather than any single political entity. When political deadlocks arise, potential resolutions can include the organization of new elections or referring contentious matters to specialized task forces. In essence, democratization represents a mechanism through which parties can co-govern the country while enjoying the support of its citizens (Wallensteen, 2007).

Höglund et al. (2009) present a conceptual framework based on three clusters of factors to understand the conflict-generating aspects of elections in fragile states; the 'key actors' in the electoral process, the institutions of elections, and the stakes of the election. Two distinct types of war-related elections are identified: elections during an ongoing armed conflict and elections after the armed conflict where peace needs to be sustained. Several questions related to elections include: "Who participates – which actors – in the elections and who does not?", "How are the elections conducted? What is at stake", and "How actors, stakes and institutions can interact with the electoral process?". The actors involved may include political parties and former rebel groups who have abandoned their violent ideologies. The institutions responsible for conducting, monitoring, and participating in the election process needs to be fair and provide ample space for a discourse. The stakes of the election refer to the gains and losses each party face in their efforts to sustain peace (Höglund et al., 2009).

These factors play an essential role in establishing democracy, demonstrating elections during wars and elections after peace have different results. It is crucial to minimize the opportunities for military actors to slide into violence. Proper policies for disarmament, demobilization, and reintegration need to be conducted to limit the proliferation of arms

becomes difficult and provide former soldiers with opportunities for social integration (Höglund et al., 2009).

Regarding institutions, impartial and legitimate electoral management bodies have shown reduced cases of violence. The presence of both local and international monitors can be invaluable in guiding the election process. Höglund et al. (2009) suggest that the stakes of elections can be reduced by 'constitutional pact-making, the strengthening of constitutional rights, and the protection of minority groups.'

Political parties are often considered to play a critical role in peacebuilding and conflict management. However, international interventions in post-conflict states can sometimes undermine efforts in economic and political development, their regular intervention even hindering the formation of political parties (Reilly, 2013).

Power Sharing and Post-conflict Scenario

Democratization is often seen as a key step in post-conflict scenarios, as it helps build strong institutions and establishes a check-balance form of governance. However, institutions that primarily promote democracy often focus on knowledge sharing and capacity building which can impact the policymaking process.

In addition to representation, the presence of institutionalized and programmatic parties seems to be a key mechanism for effective democracy (Reilly, 2013). Proper collective action, provisions for reward and punishment for governing parties, accommodative practices, and institutional design help establish democracy in post-conflict scenarios.

In post-conflict scenarios, democracy often falters as leaders are filled with hopes, but structural limitations hinder the process due to obstruction from opposing parties. This situation is characterized by an unstable government, political fragility, the vacuum of ideology and a crisis of the required resources. The conflict, having seriously destroyed the infrastructure, further escalates with a spillover effect of grief and grievances.

The 2008 election in Nepal proved to be more representative of the diversity of Nepali society, compared to the previously elite-dominated model of politics (Reilly, 2013). Achieving a multi-ethnic representation in parties is challenging, and therefore proportional representation can be one way to achieve the democracy we deserve.

Reilly (2013) conducts a comparative literature showcasing the desirable characteristics of party politics in post-conflict societies:

- a. Post-conflict societies require political stability both in terms of regime type and in terms of parties.
- b. Post-conflict systems should foster broad-based programmatic parties that compete over the generation of public goods and create a sustainable environment for them.
- c. There should be a focus from external assistance on promoting descriptive representation and minority rights. This includes existence of 'bridging' parties that promote issues from diverse social cleavages to foster democratic peace.

Jarstad (2009) explores power-sharing as a tool for ending violence after the ceasefire, emphasizing the vulnerability of the period despite peace agreement. The ceasefire merely represents an agreement between warring parties, who may still possess the capability to resort to violence. The conflict persists unless further efforts are made to democratize by both the public and political actors.

Democracy, characterized by free political competition and uncertain electoral outcomes, is foundational for sustainable peace. Power-sharing ensures the equitable distribution of power to prevent any group from gaining undue advantage over the outcomes (Jarstad, 2009). It also serves as a mechanism to oversee the democratic process through surveillance of interest groups and the presence of a free judiciary.

Election in weak and fragile state poses significant challenges, especially when new actors have recently entered the parliament. The lingering grief and grievances of war often influence decision-making during elections. Therefore, power-sharing arrangements can help diffuse power and mitigate tensions. Jarstad (2009) provides examples from various cases, indicating that many countries emerging from armed conflict proceed with elections, demonstrating the parallel processes of peacebuilding and democratization.

Several instances illustrate that when rebels are defeated in elections, it may indicate that the political pact underlying power-sharing was not adequately implemented beforehand. This highlights the importance of properly functioning power-sharing mechanisms. Furthermore, it suggests that power-sharing is not only essential for peacebuilding agreements but also crucial for fostering development and preventing continued conflict (Jarstad, 2009).

To effectively implement peace accords and promote peace and democracy, powersharing arrangements are crucial. Proper utilization of these arrangements often leads to relatively stable peace. Inclusion through temporary power-sharing is necessary in many cases (Jarstad, 2009).

Boggards (2013) emphasizes that after a civil war, 'getting the institutions right' becomes a crucial issue. Electoral system design is integral to post-conflict societies, as

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the peace agreement lays the groundwork for forming election mechanisms. Proportional representation is the 'favorite electoral system' among scholars and policymakers for achieving inclusivity in the decision-making process, which is a key aspect affecting the prospects of peace and democracy.

Different types of power-sharing, including political, territorial, and military, are considered essential, and power-sharing arrangements are considered a viable means to promote peace after civil war (Walter (2002), as cited in Boggards (2013)). Proportional representation often becomes a key component of peace agreements, as noted by Jarstad (2008), who suggests a link between pacts and peace. However, Boggards (2013) presents a compelling argument that there is insufficient evidence to suggest that proportional representation reduces violence in ethnically fractionalized societies like Nepal. Further study is necessary to understand why proportional representation was included in Nepal's peace agreement. The author also argues that while proportional representation may have helped secure peace, it has not effectively consolidated democracy.

Result and Discussion

Power Sharing in Nepal

Nepal's path to the 2008 elections came with many challenges, particularly regarding agreement on electoral engineering and power-sharing mechanisms following the abolition of monarchy. The country transitioned to a republic, electing a President as the new head of the state (The Carter Center, 2008). While the election garnered witnessed support, the Carter Center noted instances of political bias among both domestic and independent observers, some of whom covertly acted as party agents. However, the counting process was deemed orderly, impartial, and transparent, satisfying the parties involved. Observers also ensured adherence to democratic norms, and the prompt release of results allayed fears of manipulation (The Carter Center, 2008).

The CPN (Maoist) Party, with a violent past stemming from the revolution, made a significant transition upon agreeing to draft a new constitution through democratic elections as part of the Comprehensive Peace Accord. Discourses on electoral engineering were conducted to tailor democracy to Nepal's context. The conflict resolution mechanism involved actors such as UNMIN and India, which helped legitimize the peace process internationally (Adhikari, 2012). UNMIN, designated as a "special political mission", focused on the mandate of the peace process, with Ian Martin's extending beyond to prevent a return to armed conflict by the Maoists. Its assistance was instrumental in shaping the democratic emergence of Nepal as a multi-ethnic country.

Power Sharing	1950	1990	2006
Major actors	Ranas, Nepali Congress, King	Nepali Congress, Joint Left Front, Monarch	Parliamentary parties, CPN (Maoist) and Monarch
Issues	Democratization, Constituent Assembly, Civil and Political Right	Multiparty democracy	State restructuring, Full- fledged democracy
Agreements reached	Delhi Agreement (Interim government)	Interim government	CPA followed by other decisions and understandings
Problems to institutionalization (Issues for welfare state)	Intra-party Conflict, Royal Takeover	Intra-party conflict, heightened expectation of people, emergence of armed conflict	Introduction of new issues: Secularism, Federalism, New dimension of Civil- Military Relation, Shifting power dynamics

The following chart reveals the power-sharing history of Nepal with a focus on the actors and the mode of power-sharing.

Source: Bhandari, 2023

Power Sharing in 1950

The history of modern Nepal shows that there have been three major political power agreement-sharing initiatives. The 1950 Tripartite held in Delhi between Ranas, Nepali Congress and the king fostered power sharing in the executive sphere forming the transitional government. The actors have their distinct characters – Ranas the ruler, the king with no political power and Nepali Congress the armed revolutionary force. The consequence depicts Walter's power-sharing notion focusing on a democratic conflict management perspective.

Power Sharing After 1990

In 1990, the power-sharing mechanism among the Nepali Congress, United Left Front and the Monarch ended mechanizing the transitional government. However, there were no immediate armed conflicts that speculated the political power sharing. After the formation of the interim government, the parliamentary election was held along with the promulgation of a new constitution in around a year. The emergence of trade unions and other civic associations mounted. The private sphere of employment was increased. A form of equilibrium in the society was perceived. However, the heightened expectation of the people and a deep intra-party conflict within the largest political parties in the parliament of 1991, could not shape the power-sharing mechanism for a peaceful journey. And, Nepal experienced a ten-year-long armed conflict from 1996-2006.

Post-2006 Political Accommodation

The 2006 power-sharing mechanism among parliamentary parties, CPN (Maoist) and the monarch is more concentrated towards political accommodation. This was not only limited to the transitional government rather was focused to power sharing in legislation by the formation of interim parliament 2007 which captured the essence of constitutionalism though directly not representing the group and ethnic diversity. The political management of arms and armies, state restructuring and changes in election laws were implemented in accordance with the power-sharing notion before the promulgation of a new constitution in 2015.

Conclusion

Power-sharing arrangements are widely regarded as the popular policy prescription for post-conflict societies. The rationale behind this is that if all of the main warring parties are incorporated in the political system, then they are more like to develop vested interests in its stability and proper functioning. (Cammett & Malesky, 2012). Power sharing is closely associated with consociational democracy, where every group has representation in the democratic process. It involves non-majoritarian, elite-level formal and informal arrangements for limiting threats to democratic stability, particularly where ethnic or societal cleavages are politicized.

Dispersing power and promoting greater party institutionalization through closedlist, proportional representation leads to the formation of more durable political coalitions in the government. This allows checks and balances and improves collaboration in the post-war system.

Cammett & Malesky (2012) also assess how governance, defined in terms of government effectiveness, public goods provision, and state capacity, mediates the relationship between power-sharing institutions and post-conflict stability. Achieving long-term peace and stability in a war-torn country requires the selection of institutions that support broad-based coalitions and good governance.

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