

Issues of Religion in Nepal

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Abstract

Religion is one of the identities markers of the nation. In republic Nepal, the issue of religion appears as political and cultural agenda for both political and religious leaders. In this context, the paper examines focuses on the historical landmarks of debate on religions in Nepal and how different constitutions address the religious issues and why they are becoming emerging issues in Nepal. Qualitative research design was used and only secondary sources of data were applied for this study. Conclusion of the study is based on data interpretation and analysis. In the past, religion was used as a tool to gain political power that has still being continued because some of the political party leaders still use religion as a tool of collecting votes from the public.

Keywords: Constitutions, culture law, religion

1. Introduction

Religious history of Nepal leads various contradictory arguments. The arguments are used only to fulfill the intension of religious and political leaders on the basis of their respected ideology. In this regards, Sharma (2012) argues, "Religious situation of Nepal is not clear, however, we can say that Nepal is the land of devotee. People living in ancient Nepal were guided by the spirit of religion but it cannot be claimed that they belong to certain community" (p. 34). It clarifies that Nepal is the land of devotee till the time and people are worshipping various gods and goddess in the name of celebrating rituals and festivals. Before starting recorded history, there lived many aboriginal people in different parts of Nepal and they followed certain culture which was related to animism. *Gopal* is known as the first dynasty of Nepal to rule over the Kathmandu valley before *Mahispal* dynasty. *Bhuktaman*, the first king of *Gopal* dynasty, had no idea about religion and he only worshipped Krishna and cow, as incarnation of goddess *Laxmi*. One day he found out the burning stone (*Shivalinga*) the phallus of lord Shiva, and worshipped for the first time. After that *Gopal* followed their own tradition of worshipping Krishna and cow as well as Shiva. *Mahispal* also followed the same tradition and continued the worshipping system. At the end of *Mahispal* Dynasty, a gang had appeared in the Kathmandu valley and compelled people to worship Lord Shiva as a form of *Kiraneshor*. Religious conflict had begun in Nepal since the time of *Kirant*. Some *Kiranti* kings were so strict in religion and some were liberal. One of the liberal kings gave permission to build *Charumati Bihar*. In this regards, Budhathoki (1982) highlights, "During the time Kirant state authority followed *Kiranti* tradition that is similar to the Shaiva tradition. The tradition also divided in two groups, one group known as Bhairap and another group is known as *Kirnat*" (p. 22). Bhudathoki has divided *Kirant* tradition in two groups, however, I am not sure about that and there found Buddhist and *Bainsab* tradition in Kathmandu.

Hindu religion had been followed as official religion in Nepal. State authority compelled people to follow the king's religions and minority groups were highly oppressed by the rulers. In this regards, Adhikari (1988) claimed that, "Lichhavi king like *Mandev*, *Amshu Barma* and *Narendra Devhad* given emphasis on Hindu culture and systematized the Nepali society. They had also given respect to other local culture; however, local cultural groups should follow the king's religion" (p. 34). He noticed that during the time of *Licchhivi*

dynasty, highly practiced Sanskrit culture and Buddhist monks and priests also shared the knowledge of Hindu scripture. After the end of *Licchhivi* dynasty, there had begun Malla dynasty. Jayasthiti Malla again followed the Hindu scripture and maintained peace and harmony in society. Except some of the Malla kings, others followed *tantrism*. Hindu culture had fallen under the crisis in Kathmandu valley and its' surrounding area. In Gorkha, Ram Shha, king of Gorkha, followed Hindu tradition and systematized the system.

Both ancient and medieval periods, religion was used as a means to control people. After the unification of Nepal, King *Prithivinaryan Shah* also followed the same tradition. In this regards, Sharma (2012) highlights, "King *Prithinarayan Shaha* used religion as key factors of unification and convinced people about the power of gods. He claimed that he was one who had got grace of gods and goddess. The myth helps him to unify Nepal as a big nation without hard effort "(p. 34). After *Prithibinarayan Shah*, King *Surendra* lunched country code (*Muluki Yen*) with the recommendation of Prime Minister, Jungbahadur. The *Muluki Yen* is the first written document that compelled people to follow Hindu tradition and culture as the name of nationality. Rana rulers also used religion as a means of nationalism. Nepali monarch again used religion as tools to control people in the name of nationalism and unified national identity. In this context, the paper analyzes how state authority addresses the issue of religion in Nepal after established democratic system of government and why present political parties' leaders use religion as a means of collecting votes and popularity.

2. Methodology

Due to nature of the study, the study followed qualitative research design and interpreted the issues of religion in Nepal on the basis of different constitutions lunched in Nepal in different times and situations. Creswell (2016) highlighted that qualitative research design helps to analyze the situation on the basis of interpretation on the basis of evidence collected through secondary sources. So, in this study only secondary sources of data were used that were gathered through literary research method. Books, journals, legal document were used as main sources of information. The paper is only limited to the religious issues that play vital roles in Nepali politics since ancient time. Collected data were analyzed by using paragraph description and highlighted the issue of religion that mentioned in different constitutions in different times and contexts.

Provision of Religious issue in different Constitutions

During the end of Rana regime, prime minister Mohan Samasher lunched the first constitution by given name '*Baidhanik kanun*' in 1947, the constitution did not legally apply in Nepal, however, the constitution is known as the first constitution of Nepal. The constitution also mentioned various rights of the people including rights to religion. In this regards, part (3) article (4) highlights:

By not violating the principles of public morality, in accordingly to the existing and new Act and rules to be made hereunder, is given fundamental rights to the citizens of Nepal that of Personal Liberty, Freedom of Speech, Freedom of Publication, Freedom of Assembly or Organization, Freedom of Religion, Equality before the laws, Cheap and Speedy Justice, Free and Compulsory Primary Education throughout the country, adult franchise, Right to Protection of Private Property. (p.3)

The constitution only mentioned religion as fundamental rights of the people and made the provision of protecting all the religions that have been practiced in Nepal since long. Particular religion has not been mentioned in the constitutions. Article (p. 42) sub articles (2) also valorizes all the religions as, "Any proposal affecting the religious rites or thoughts of any caste or institution shall be deemed to have passed only if two-thirds of the members present and vote in favor on it"(p. 2). The constitution is neutral and secular in term of religion. Like that, interim *constitution 1950* was also liberal in the issue of religion. The

constitution mentions the issue in article 15 (1) as, "The Government shall not discriminate against any citizen on grounds only of religion, race, cast, sex, and place of birth or any of them"(p.7). Similarly, the constitution made provision of protecting people from beggary and proved equal right to all people who belong to various religions. In this regards, article 20 (2) highlights, "Nothing in this section shall prevent the Government from imposing compulsory service of public purpose, and in imposing such service the Government shall not make any discrimination on grounds only of religion, race, cast or class or any of them"(p. 22). The constitution provides equal priority to all religious groups and there has not the provision to protect particular religious group living in Nepal, however, *the constitution of the kingdom of Nepal 1958* focused on Hindu religion and clearly mentioned in the preamble as:

Whereas His Late Majesty King Tribhuvan Bir Bikram Shah Dev, Father of the Nation and revered descendant of the illustrious King Prithvi Narayan Shah, adherent of Aryan Culture and Hindu religion, having led a Great revolution for the rights and welfare of His subject. (Preamble, 1)

Above lines indicate that the *constitution of the kingdom of Nepal* only given permission to Hindu king to rule in Nepal. Same matter mentioned in article (1) sub article (3) and insisted king to be Hindu emperor. Similarly, article (4) sub article (2) mentions the issue as, "In the application of general laws there shall be no discrimination against any citizen on grounds of religion, sex, race, caste or tribe"(p. 4). The constitution mentions rights to follow own religion in article (5) and states, "Every citizen, having regard to the current traditions, may practice and profess his own religion as handed down from the ancient times. Provided that no person shall be entitled to change of his religion"(p. 7). The provision discouraged people to adopt new religion and compelled them to continue old one. The constitution focused to control conversion. *The Constitution of Nepal, 1962* was more rigid on the provision of religion and declared Nepal as Hindu kingdom. In this regards, Article (3) sub article (1) goes, "Nepal is an independent, indivisible and sovereign monarchical Hindu State. (2). The constitution has only given rights to rule Hindu king that mentioned in article (20) sub article (1) as "In this Constitution the words 'His Majesty' mean His Majesty the King for the time being reigning, being a descendant of King Prithivi Narayan Shah and adherent of Aryan culture and Hindu religion"(10). The constitution also followed the provision of previous constitutions about rights to follows the religions in article (14) as, "Every person may profess his own religion as handed down from ancient times and may practice it having regard to the tradition. Provided that no person shall be entitled to convert another person from one religion to another"(12). Nepali rulers are afraid with conversion and cut of the rights of people to adopt new religions. Many foreigners who involved in conversion related activities were punished during the time. Country code (2020) noted the punishment to the people who were involved in conversion in the following way;

No one shall propagate any religion in such a manner as to undermine the religion of other nor shall cause other to convert his or her religion:

If a person attempts to do such an act, the person shall be liable to imprisonment for a term of three years, and if a person has already caused the conversion of other's religion, the person shall be liable to imprisonment for a term of six years, and if such person is a foreign national, he or she shall also be deported from Nepal after the service of punishment by him or her. (p. 405)

Above legal provision had been continued till 1989. After people movement of 1990, new constitution was promulgated and Nepali society followed certain democratic norms, however, country code still created the horror and fear to the people to involve in conversion related activities. *The constitution of Nepal 1990* avoids some provisions that followed by the previous constitution and provides equal rights to all people living in Nepal. In this regards, article (2) mentions "The Nation Having common aspirations and united by a bond of

allegiance to national independence and integrity of Nepal, the Nepalese people irrespective of religion, race, caste or tribe, collectively constitute the nation"(1). In the same line, part (3), article (12) and (12) also mentioned same provision and given equal opportunity to all religious community to expresses their views and opinions. Moreover, in article (19) made the provision of rights to religion that goes on:

Article 19 Right to Religion (1) Every person shall have the freedom to profess and practice his own religion as handed down to him from ancient times having due regard to traditional practices; provided that no person shall be entitled to convert another person from one religion to another. (2) Every religious denomination shall have the right to maintain its independent existence and for this purpose to manage and protect its religious places and trusts. (p. 10)

Above lines shows that constitutionally people have got equal opportunists to follow and preserve their respected religion. However, the constitution also continued the provision of pervious constitution in article (4) sub article (1) and article (27) sub article (1) that goes on:

Article 4 The Kingdom (1) Nepal is a multiethnic, multilingual, democratic, independent, indivisible, sovereign, Hindu and Constitutional Monarchical Kingdom. "In this Constitution, the words "His Majesty" mean His Majesty the King for the time being reigning, being a descendant of the Great King Prithvi Narayan Shah and an adherent of Aryan Culture and the Hindu Religion. (p. 2)

The provision indicates that how state authority has given priority of religious identity in Nepal although the constitution provides equal rights to the people living in Nepal. The provision valorized hind religion and placed the religion as national identify. Except Hindu, other religious groups refused to follow the constitutional provision and demand to make secular state. Moist Civil war began in Nepal in 1995 with demand of secular state. After the end of Maoist civil war in 2006, *Interim Constitution 2007* was promulgated in 2007 January. The constitution had cut off the tradition and followed the new provision in religion. The new provision is against the Hinduism and Hindu monarchical system of state. The constitution provided equal rights to all religious community and declared the nation as the secular one. In article (4) there clearly mentioned Nepal as a secular state, "Nepal is an independent, indivisible, sovereign, secular, inclusive and fully democratic State"(p.1). In the same line, the constitution mentions Nepal as multi religious nation. In this regards, Article (4) highlights, "Having common aspirations and united by a bond of allegiance to national independence, integrity, national interest and prosperity, the Nepalese people endowed with multiracial, multilingual, multi-religious and multicultural specialties collectively constitute the nation"(p.2). For the first time, Nepal is constitutionally declared as a secular nation and minority religious groups have got opportunities to freely adopt and promote their religions. The provision mention in article (23) under the topic of rights to religion that goes on:

Every person shall have the freedom to profess and practise his/her own religion as handed down to him/her from ancient times having due regards to traditional practices. But no person shall be entitled to convert another person from one religion to another and shall not take actions or behave that would create disturbances in other's religion. Every religious community in accordance with the law shall have the right to maintain its independent identity and conserve and manage its religious places and trusts. (p. 6)

The provision is different from the provision of previous constitution because the constitution opens the new land mark for conversion. The constitution also provides equal rights of freedom and equality to all people living in Nepal in term of religion.

After introduced secular constitution in Nepal various political parties like national Democratic Party (Rastriya Prajatantra party), Unified Nepal Party (*Akhanda Nepal*) demanded to establish Hindu kingdom. In the first constitutional assembly National Democratic Party made this issue as main agenda but the party could not get sufficient seats and failed to create pressure of establishing Hindu kingdom. In the second constitutional assembly election National Democratic Party achieved more seats and declared as the fourth biggest political power in constitutional assembly. The constitutional assembly made the new constitution in 2015 and continued the provision of secularism. The constitution adopted same provision of interim constitution; however, it added some justification of the secularism. In article (4) mentions:

State of Nepal: (1) Nepal is an independent, indivisible, sovereign, secular, inclusive, democratic, socialism-oriented, federal democratic republican state. Explanation: For the purposes of this Article, "secular" means religious, cultural freedoms, including protection of religion, culture handed down from the time immemorial. (p. 1)

The provision introduces Nepal as a secular nation with multi religious identities. The preamble of the constitution highlights the multi religious identity of the nation instead of Hindu state. The preamble of the constitution mentions "...multi-lingual, multi-religious, multi-cultural and diverse regional characteristics,"(p. 1). Article (3) also repeats the provision as, "All the Nepalese people, with multiethnic, multilingual, multi-religious, multicultural characteristics"(p. 1). The constitution tries to solve the debate of state religion and address the demand of non Hindu communities. It describes detail in article (26) about various aspects of religious rights as:

Right to freedom of religion: (1) every person who has faith in religion shall have the freedom to profess, practice and protect his or her religion according to his or her conviction. (2) Every religious denomination shall have the right to operate and protect its religious sites and religious Guthi (trusts). Provided that nothing shall be deemed to prevent the regulation, by making law, of the operation and protection of religious sites and religious trusts and management of trust properties and lands. (3) No person shall, in the exercise of the right conferred by this Article, do, or cause to be done, any act which may be contrary to public health, decency and morality or breach public peace, or convert another person from one religion to another or any act or conduct that may jeopardize other's religion and such act shall be punishable by law. (p. 10)

The provision justified that national identity of Nepal shifted from the Hindu religion to a multi-religious nation. During constitution making process various religious leaders and political parties' leaders demanded to mention Nepal as the Hindu nation, but major political parties like Nepali congress, Nepal communist party united Leninist Marxist, and Nepal communist party united Maoist rejected the demand and mentioned secularism in constitution. However, the issue is controversial among these three major parties. The controversy can be openly seen in Nepali congress and Unified Leninist and Marxist.

Religion and Politics

Nepali had practically practiced multi ethnic, multi- culture and multi-religious ethos since long, however, some of the rulers tactfully defined nation as a Hindu kingdom and the issue being made in politics. Shah dynasty claimed themselves as incarnation of god. The concept was followed by the people for long time and was accepted the domination of monarchy. Monarchy projected it as a form of religion or culture. Nepali people also followed the same tradition in the name of Hinduism. After Maoist civil war, monarchy had been abolished from Nepal and Hinduism also eliminated by the political parties. Religious

based nationalism ended with the provision of secularism. In this regards, David (2007) notes:

The decline of religious nationalism in Nepal makes it an interesting exception in a time where the tendency is for more assertive religious nationalism. This research has attempted to isolate a list of interdependent factors that may explain this decline in Nepal: being a fragile state, having a top-bottom religious nationalist structure, and experiencing a legitimacy crisis made it impossible to withstand the pro-secular pressure. A general hypothesis on the conditions needed for a shift from religious nationalism to secularism or from religious nationalism to secularism is also presented. (p. 2)

However, major political party like Nepali congress is also in dilemma on the issue of religion and some of the leaders of Nepali congress tried to collect votes by using religious issue. No doubt, Nepal is a Hindu dominant nation because more than 80% people follow the Hindu religion. So, the agenda of establishing Hindu nation is very cheap and a simple slogan for the political parties. National Democratic Party tries to use the slogan to sustain political life of the party; however, other parties are also going to share the agenda.

During Maoist civil war, secularism became the political agenda of Maoist that helped the party to gain political power in hand. Now Hinduism is slowly and gradually becoming the main political agenda of collecting votes from the Hindu people. It is shown that religion is becoming the main issue of gaining political power in Nepal.

3. Conclusion

By law, Nepal is introduced as a secular as well as multi religious nation, however, national population reports (2011) shows that more than 80% people followed Hindu religion. Both *Interim Constitution of Nepal 2007* and *Constitution of Nepal 2015* defined Nepal as a secular nation because major political parties like Nepali congress, Nepal communist party, United Maoist and Nepal Communist party United Leninist Marxist accept the provision. In constitutional assembly, only National Democratic Party voted against the provision of secularism. After launching the new constitution, neighboring country India and ruling party Bhartiya Janata Party (BJP) has given red signal to the major political parties in the issue of secularism and said that that secularism would not do good for peace and development for the nation. Besides the reason, secularism is one of the causes of ignoring by BJP; however, major political parties rejected the interest of BJP. Major political parties wanted to eliminate the monarchy so that they fear Hinduism because Hinduism prioritizes the monarchy rather than republic system of government. After short period of the promulgation of the constitution of Nepal 2015, popularity of the major political parties is going to decay. In this context, new political power may introduce in Nepal with religious agenda and the party may lead religious conflict between Hindu and non- Hindu that it will be the main problems in the future. Thus, political parties should be conscious about the religious issue in Nepal that may go out of control due to support of BJP of India. This article shows the secularism as an issue in Nepal.

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