

Six years without constitution

The dampened expectations for Nepalese democracy

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This article peers into the anxieties of the democratic process in post-conflict Nepal. Today, while the recent elections gave Nepal's politicians a new mandate to finish the constitution-drafting process, the negotiations surrounding the troubled issue continue. Despite the established formal democratic institutions and procedures, authoritarian legacies and pre-democratic political practices, values and attitudes co-exist with the new democratic establishment with negative consequences for governmental stability. The article shows how the existing Nepalese political culture reflects a contradictory mix of deference to senior leaders, but also distrust of their authority, and a culture of confrontation rather than compromise.

Keywords: Anthropology, Democratic Consolidation, Nepal, Political Culture, Transition

Introduction

This is an article about the struggles of Nepal's citizens and politicians to consolidate on the democratic gains of the 2006 democratic movement. Nepal abolished monarchy in 2008, yet the young republic's politicians have so far failed to promulgate a new constitution. In addition, the instability of the political system has produced a dysfunctional rule of law with insufficient means to deliver social justice and abolish the culture of impunity that has become rampant in the political sphere (Dahal and Bhatta, 2010; Baral 2012, Pfaff-Czarnecka, 2008; Lawoti 2014). As a result, the article portrays a troubling picture where the lack in functioning systems of accountability is preventing concerned citizens from counteracting abuses of power by the power elite. Nepal's political leaders are entrenched in a clientelistic and patrimonial culture which prevents them from formulating effective policies and contributes to an increasing sense of apathy in their constituencies.

Methods and data

The findings are based on ethnographic fieldwork I conducted during winter 2013–2014 in Nepal, where I participated in workshops and demonstrations of several civil society groups and political organizations, such as trade unions, who were involved in community building, policy making, and in interest group activities. The work builds on the literature on the political history of Nepal, on theories and anthropology of democracy, on local debates and discussion, and on ethnographic data gathered during the fieldwork, and reflects on the framework of democracy development. In addition to information acquired through participant observation, the research material consists of eight semi-structured interviews and several supporting in-depths discussions. The interviewees are urban professionals and members of the small yet growing Nepalese middle-class of the Kathmandu valley. The fieldwork data is analyzed in the context of Nepalese democracy and the analysis is supported by a citizen survey on the state of Nepal's democracy (2013).

In the following chapters I will take a look at the contemporary political developments in Nepal,

reflect on the argument about a state of “democratization of powerlessness”, and shortly explore contemporary Nepali attitudes towards both the nation’s politicians and the democratization process itself.

Constitutional deadlock and the failure of the 1st Constituent Assembly

Regardless of Nepal’s recent impressive political developments, such as the integration of the Maoists insurgents into the mainstream and the collective push towards multiparty democracy, it has become obvious that the political parties that had united against the monarchy are collectively failing to keep their promises. Above all, the parties have been struggling to fulfill the objectives of the 2006 revolution – promulgation of a constitution, completion of the peace process and federalization of the republic in order to ensure both inclusiveness and empowerment of all people, notably, the ethnic groups, the Dalit, women, the Madhesi and other deprived sections of society (Baral, 2012, p. 22). When the 1st Constituent Assembly was dissolved in 2012 after four years and four governments without having delivered a constitution, it sent ripples of outrage throughout the Nepalese society. Bishnu Rimal, who I interviewed in February 2014, was a CA member in 2012. We discussed the post-revolutionary period on which he had recently written an article. In it, he wrote how,

“The Nepali people now find themselves at the crossroads of hope and despair, with the color of hope fading each passing day“ (2013)

The quote aptly describes the atmosphere in Kathmandu at the time of my fieldwork. The deficiencies in administrative and institutional processes and the lack of accountability both on the national and local level reflect the historical crisis in Nepali politics – a situation in which formal democratic rules and regulations exist only on paper, and the collective impact from crises of governance and a lack of accountability systems has led to the erosion of faith in demo-

cratic institutions.

Joanna Pfaff-Czarnecka (2004) notes how Nepal conforms to a widespread pattern of transitional situations around the world in which reforms have been undertaken but have failed to be successfully implemented. When the democratic reforms are confronted with pre-existing political coalitions, autocratic attitudes and expressions of the previous mode of power, the reforming forces are often brought to a halt. Uneasy compromises between the two will emerge by chance or on purpose, encouraging the creation of parallel state structures in which the new democratic institutions continue a precarious co-existence with the preceding political forces. Consequently, formal rules and regulations fail to be institutionalized. Rather than losing their former prerogatives, resourceful politicians and strongmen manage to gain ground within the new system.

At the moment, the frustration of the Nepali people is being increasingly directed at the political parties that are believed to be obstructing the democratic reforms through their inability to reach consensus on critical issues, namely, in writing the constitution. This deep mistrust emanates from the contemporary Nepali political culture that is characterized by the persistence of old autocratic values and severely contentious politics. The end result is a continuous political struggle over power-sharing and the use of disruptive measures to make a political point or change government policy (for an overview of Nepali political conflicts see Lawoti, 2007). When accountability seems nowhere to be found, and partisan, intraparty and personal conflicts are fueled by conflicting ideologies and favouritism, governmental instability tends to follow. Since the historical shift from panchayat governance into party politics in 1990, excessive polarization of politics has threatened to overwhelm the country and created deep cleavages between different sectors of society (Bhatta 1999). When asked about this, an informant of mine who was coordinating cooperation between local trade unions, told me:

“[politicization] in itself is not the prob-

lem. The problem is our complete inability to resolve these conflicts.”

During my stay in Kathmandu I witnessed on several occasions how the government formation process was slowed down due to individual actors turning procedure formalities into petty rivalries, for instance, whether the first CA meeting should be called into meeting by the President or by the Chairman of the Interim Council of Ministers. This particular incident escalated all the way up to the Supreme Court before being resolved. Another prominent facet of this kind of dysfunctional politics is the political parties' tendency to undermine democratic institutions through abuse of legal technicalities or simply by brute force. A case in point is the 1st Constitutional Assembly's dissolution in May 2012 and the debate on federalism that preceded it.

During the negotiations over this issue, the top leadership of Nepali Congress, CPN-UML and the Maoists attempted to bypass Constituent Assembly committees several times through backdoor deals that would have left many of the proponents of identity-based federalism marginalized and powerless. Ultimately, the leaders of the three major parties manipulated the process to avoid the vote on the federal question by refusing to call a session of the Constituent Assembly until it was set to expire (Lawoti, 2014, p. 137). After four years of squabbling, the political parties failed to settle the federal issue and deliver a constitution, and were now forced to appeal to the Supreme Court to extend the CA's tenure for the fifth time. Instead, the Court ruled that any further extension would be unconstitutional and that the politicians would have to seek a fresh mandate from the people.

Democratization of powerlessness

Based on my observations and on the Citizen Survey 2013 by The International Institute for Democracy and Electoral Assistance, I can conclude that the majority of Nepalese people identified the failure of the 1st CA to be the direct fault of the political parties in the form of power struggles (43% of the respondents of the survey

agreed) and internal division (26%). Most of my interviewees agreed that there was a rift between their party leaders' pro-democratic rhetoric and the reality of their actions. They felt that these displays of contempt for democratic norms have had several consequences, among them the rendering of the elected CA's representative character meaningless and the threatening subversion of Nepalese democracy. At a time when Nepal is in dire need of the consolidation and deepening of democratic practices, the duplicity of Nepal's politicians only contributes to the growing frustration of the people and their disillusionment with the system. Despite a popular support for democratic principles, this frustration is likely to continue to diminish Nepali people's faith in multiparty parliamentary politics.

Despite the fact that voters in Nepal often use their option to punish misbehaving politicians for their failures by not re-electing them, the politicians enjoy a powerful autonomy in relation to their voters. This is especially true when the only alternatives have already disappointed their constituencies in equal measure, as is often the case. On the other hand, politicians who strive to live up to egalitarian standards are often unable to gain the necessary support from their superiors, as weak access to private channels and networks renders them powerless, despite a possible moral high ground. The democratic deficit grows as local electorates who have been repeatedly disappointed by the performance of their leaders, stop believing what their political candidates are saying and lower their expectations of the system. Out of two undesirable candidates – a corrupt leader, or a weak leader – people tend to opt for the former, as he is more likely to obtain badly-needed goods and services through his patrons. (Pfaff-Czarnecka, 2004, p. 10–12).

Private networks and patron-client structures allow politicians to demonstrate strength by acquiring goods through external networking, which in return allows them to withdraw from the control of the electorate. This demonstrates how the historical patrimonial politics in Nepal are transforming (and translating) into neopatrimonialism in a democratic state. The strong

tendency for distributional coalitions to form between politicians, civil servants and entrepreneurs is by no means incidental but a result of patronage networks expanding into modern state institutions.

Political culture in ‘New Nepal’

The precarious nature of Nepali democratic transition and administrative innovation comes to light when viewed from the perspective of the vast majority left outside these distributional arrangements and powerful patronage networks. Underneath the formal democratic principles lie the long-established patterns of personal politics from the old extractive era – emphasis on informal patronage networks (*afno manchhe*) and coercing patrons through currying favor (*chakari*) – that have continued in the present, democratic and developmentalist polity (Pfaff-Czarnecka, 2008, Subedi, 2014). This patronage system, partly rooted in 19th century Rana traditions, helps to maintain a culture of impunity. Vincanne Adams’ (1998) study on the role of Nepali medical professionals in the 1990 revolutionary changes shows how the persisting patterns of *afno manchhe* and other forms of patronage are explained by how in the past these reciprocal affiliations were not only necessary for survival, but considered to be a moral necessity and a way of being Nepali. In the traditional Nepalese socio-moral universe it was the Hindu monarch who represented the state and to whom the Nepalese people were connected through a sacred sense of duty. This duty was institutionalized in everyday actions of patronage and reciprocity. To be a loyal citizen meant being involved in actions of reciprocity towards other Nepalis, which in a religious sense converged with this sacred duty to the king.

The dynamics of electoral competition and democratic institutions transformed the patron-client relations; as the new primary political unit and the base for obtaining social affiliations, the Nepalese political parties took advantage of the existing traditional patron-client clusters and incorporated them into their structure. This

impact on the patron-client relations has tended to heighten factionalism and conflict. In the traditional setting any rivalry between patrons was largely limited to the local area but the contemporary electoral system maintains rivalries at both the regional and national level, with destabilizing effects on society and politics. During the past 25 years individual *afno manchhe* has transformed from, say, obtaining scarce consumer goods, into institutionalized corruption that often involves complicated networks between high-ranking officials, businessmen, army and the police (Subedi, 2014, p.82).

While conventionally credited with taking an important part in democratizing authoritarian legacies, it would seem that in Nepal political parties are highly problematic organizations from the point of view of democracy development (Carothers, 2007, p. 18). There exists a tendency toward leader-centrism, top-down organizational management, nontransparent financing, relentless electoralism and ideological vagueness. Despite continuous experiments with democratic reforms and decentralization, the power abuses of politicians have dampened the expectations of ordinary people about a more democratic and locally grounded political life, and dimmed the scope of sustainable democratic evolution. Therefore the traditional ethos of Nepali elites, despite being instrumental in bringing about a revolution, remains unchanged (Baral 2012, p. 232–233).

When I compare the sentiments in the years following the 1990 revolution (e.g. Bhatta, 1999, p. 81–82), the recent survey data (Citizen Survey Report, 2013), and my own findings from the early 2014, I find that the same main issues continue to feed the public growing disenchantment with the political system. The movement of 2006 failed to transform the existing nature of the Nepali state. There still exists a widespread feeling that not enough has been done and that not enough has changed. People perceive the political parties as continuing to put their interest in power and money over the interests of their constituencies and the nation. Conflicts between personalities, the centralized and patri-

monial party structure, and the manipulation of ideological issues to legitimize competition over state resources and the development process have brought down trust in political parties to the lowest in a decade (36%, Citizen Survey 2013).

From false hope to collective action

Riding on the wave of renewed democratic euphoria, Nepalese party leaders have kept on giving unrealistic promises and false hope of what the republican system would achieve. The role of verbal representations in the creation of egalitarian images can be effective as pacifying rhetoric by the local politicians covers up persisting social cleavages in the democratic polity. In a situation where “democratization of powerlessness” prevails, the strategic use of such rhetoric can bring about social effects that enforce autocratic structures rather than bring about their end (Pfaff-Czarnecka, 2004, p. 7). The optimistic view in the beginning of the 21st century was that after a natural screening process, the Nepalese political parties would manage to find a common agenda. Unfortunately, it would seem that we are presently closer to the foreboding possibility set forth by Bhatta (1999, p. 87) that Nepali politics would in time degenerate to such an extent that parties will completely cease to connect with the masses.

An informant affiliated with BibekSheel Nepali, a CSO that runs a leadership program for Nepali youths, articulated this in the following way:

“The problem with this country is that people know how to get into power and don’t know how to govern, how to stay in power, how to actually, you know, rule wisely. Nepal is a very young country, but the political leadership is very old. Not just in terms of age but in terms of thinking. So it’s very archaic and out of tune with the rest of the world. And so that’s why we’ve built our organization around pragmatism, and issue based politics, not ideology-defined politics.”

He sternly believed that it was necessary to change the political culture of Nepal and to do that they have to become not only a political

force, but a moral force. Based on this and on similar views I encountered, there exists a growing mass of critically aware Nepalese who are refusing to be relegated as bystanders in their polity. From their point of view, Nepal needs a greater emphasis on duty-based civil society and public sphere.

Reflecting on the constitutional turbulence and on the debates raised by the civil society (Bhatta, 2010) it can be concluded organizations such as BibekSheel possess the key to countering power abuses by the political elite, and protecting the rights of those citizens left to margins of their polity. To achieve democratic consolidation, the powerless need to have a sufficient stake in the political system or else democracy becomes nothing but a game of power-specializing elites with devastating effects on political stability. Despite the growing frustration with the demeaning nature of Nepali politics, the high voter turnout in the 2013 2nd Constituent Assembly elections (78.34 %) shows that the Nepalese people have not lost faith in the democratic process itself. If the Nepalese citizens are able to make political interest groups and the political parties accountable, perhaps a more egalitarian and transparent democratic culture can take hold and a deep reform of the Nepali state structure becomes possible.

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