



Nepali democracy will not consolidate without power sharing institutions

Dr Mahendra Lawoti

Political scientist Dr Mahendra Lawoti, visiting assistant professor at Wake Forest University, North Carolina, USA, states that Nepal's current democratic institutions are not in accord with the social and cultural reality. Lawoti who did his PhD on 'Inclusive Democracy: Political institutions and multicultural society of Nepal' says, "The Westminster model of democracy adopted by Nepal has been unsuccessful in multi-cultural countries." Kumar Yatra talked to Lawoti while he was here. Excerpts:

Nepal today is overwhelmed by uncertainties and doubts. Where did we go wrong to be swamped in political, social and economic uncertainties?

The dissatisfaction, grievances and unrest seen in Nepali society is but obvious. But the problems are only being analysed at the superficial level. We try to find a solution by presenting the Maoist insurgency, the palace intervention of October 4, the issues raised by indigenous peoples, women, Dalits as being the causes of the problem. However, they are just symptoms, and not the underlying causes of the problems. One of the core problems is the continuation of state's structures since hundreds of years that promotes one group and culture.

In other words, the constitutional framework is not suitable...

Certainly Nepal's current democratic institutions are not in accord with the social and cultural reality. The Westminster model of democracy

adopted by Nepal has been unsuccessful in multi-cultural countries. Long established multi-cultural democracies have consensus model of democracy. This lack of congruence between societal and state structure in Nepal is the main cause behind the protracted conflicts in Nepal.

Is the Constitution 1990 like that or is the previous one too the same?

To evaluate the Nepali democracy we have to look at the Constitution 1990 because that established the democratic institutions. The Constitution before that was not democratic. Thus the Constitution 1990 should be today's debate and that is where a major problems lies.

But hasn't the intellectual community called it a first-rate constitution?

Yes, but if you look at the ethnic background of those who have praised it, it is not difficult to grasp the psychology behind it. Those who have praised the Constitution 1990 are mainly male Bahuns. They are right, to some extent because if the dominant group member does not have ideological problems with the Constitution, no Constitution can be better than the current one to perpetuate continuity of their group dominance. It has provided democratic legitimacy to the domination. But the indigenous peoples, dalit, madhesis, women, and minority religious groups' intellectuals have not called the Constitution good from the very start. Rather there are examples of visible disagreements by these groups (who constitute around 85 per cent of the population, if women are included), such as the burning articles of the Constitution.

The mainstream political parties have not shown opposition to this Constitution. How can you substantiate your claim of the majority?

In a democracy, political parties are often at the vanguard but they do not represent all the public aspirations. Many forms of pressure and assertions of community rights are also of equal importance. Social

movements around the world have brought many changes. In the Nepali context, the support the Maoists have received also clearly demonstrates that people are not only behind the mainstream political parties.

Along these lines many think the state has failed to address such particular cases and if the political parties have failed to take such cases to the public, then haven't others failed as well?

The Westminster political institutions are also responsible. For example, if elections were held under a proportional electoral method instead of the current first past the post system, the seats of smaller ethnic oriented parties would increase while those of the larger parties would decrease. Based on the voting in 1999, the Rastriya Jana Mukti Party would have got at least two seats while the Nepal Sadhbawana Party also would have received more seats. Second, there is also lack of accountability in the current system. Third, since the ethnic, linguistic, and cultural movements are at an initial phase, they are not in positions to determine the win or loss of elections or subsequent political programmes.

Well, if that's the case then the election process should be modified?

Yes! Among other things, I have been advocating for electoral reforms. If you want to reform Nepal's democratic system, then power sharing democracy should be adopted. Power should be shared among ethnic groups and religious communities, and different political actors and institutions. By emulating the experiences multi-cultural or multi-national countries like Belgium, Switzerland, Netherlands, Papua New Guinea, Austria, India, Germany, Nepal too must adopt an inclusive state structure.

How can you achieve an equal sharing of power from such a structure?

Three problems can mainly be seen in Nepal due to the 1990 constitutional

provisions. The elected party does whatever it wants to, the lack of a mechanism to control power abuse, and problems of government instability. That is why different communities' involvement in governance, empowerment of parliament in comparison to the cabinet, establishment of powerful and autonomous constitutional bodies can promote inclusion, accountability, and stability. Cultural federalism, autonomy, reservation, and proportional distribution of resources are part of a power sharing system.

In the context of Nepal's geography, what kind of federal state is suitable?

In a democracy it is the citizen's right to govern oneself. You find different forms of federal models adopted throughout the world. Australia has adopted administrative federalism to govern its large country. But multi-national countries like Switzerland, Belgium (terrain and population wise smaller than Nepal) have adopted cultural federalism. Administrative federalism in Nepal cannot address the growing linguistic and cultural aspirations. That's why Nepal needs cultural federalism. India initially adopted an administrative federalism but after linguistic riots and protests, it adopted linguistic federalism. A country must adopt federalism that is in congruence with its society's make up and aspirations.

There are many communities who do not belong to a specific place. They are not from one area. For such groups, would not a federal system become even more problematic?

Indeed, the Dalits, Chettris and Bahuns, and other groups are spread across the country. These communities can be given autonomy through a non-territorial federal system. The communities will form their own national councils through elections. The councils work to protect and preserve their culture, language and other interests. The state gives the budget and the right to self-rule to the representative councils.

Even if certain communities are a majority in some regions of the country, the same community is also present in other areas. For example if Limbuwan has a majority of the Limbus, they are also present in Kathmandu. How does this construction include them?

I have proposed three ways to provide autonomy because Nepal has different groups with different problems and needs. In addition to territorial and non-territorial federalism, I have argued for local group autonomy. If a concentrated local community wants self-rule it should be given to them. In addition, several indigenous groups are small and marginalised, for example Kusunda, Raute, Koche, Meche etc. The state should launch special programmes for their upliftment and preservation.

However, even in countries with federal structures, there are examples where the centre intervenes to undermine regional authorities. How do you control this?

To check such an intervention we need a central constitutional court. Though the Supreme Court has the right to interpret the constitution, its past regressive interpretations have hurt the indigenous peoples, women and madhesi. Thus, the constitutional court must have proportional representation from different communities.

A federal system is often accused of inviting disintegration. Yugoslavia, Russia and Czechoslovakia are often cited as examples of a federal system breaking up countries. All three countries were communist states. Not a single democratic federal country has disintegrated. Instead, countries with power sharing institutions have become more integrated. However, if power is centralised like in communist states, then dissatisfaction may grow. If the unitary system and culture is strengthened even more in Nepal the problems will become even bigger.

Doesn't the federal system

decentralise not only power but also disputes, rows at the local level?

Certainly! Scholars who studied federal and unitary system found that there are higher numbers of small protests and demonstrations in federal systems. Protests and demonstrations are signs of vibrant democracies. Thus, in fact, they are good for democracy. The same studies found higher numbers of rebellions, revolts, and violent conflicts in unitary systems. In Nepal, the unitary system has facilitated the Maoist revolt to swell and grow. If the unitary system is continued, the possibility that the ethnic



movements will not turn into rebellions cannot be ruled out.

What would you say to the claims that a federal system is not suitable for a country with a constitutional monarchy?

Countries like Belgium, Denmark, Spain, Australia and Canada are federal countries with constitutional monarchies. Thus, the argument doesn't hold water.

The question is also of garnering and mobilising means and resources. How are the resources managed in such a situation?

In many countries, constitutional provisions provide guidelines for allocating resources based not only on the population and geography but also on a regional basis. We can emulate a similar

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system here. Even with Karnali, if the resources going there through different channels of the state are given to the local governments, the local governments can better utilise them because they are more knowledgeable about specific local problems, needs, and opportunities. Additionally, the local governments can identify new resources and generate more local resources as well.

When do you think will your views be implemented?

The history of the world shows that no new big policy is ever adopted without great disturbances. The Maoist rebellion has created a setting in Nepal at present. Therefore let's hope that all the parties, civil society, and activists will converge to reforms that will address the problems bogging Nepal. ●



शक्ति साभेदारीको प्रजातन्त्र स्वीकार गर्नुपर्छ

-डा महेन्द्र लावती

राजनीतिशास्त्री डा महेन्द्र लावती अमेरिकाको विन्स्टन् सेलमस्थित वेक फरेस्ट विश्वविद्यालयमा प्राध्यापनरत छन्। अमेरिकाकै पिट्सबर्ग विश्वविद्यालयबाट 'समावेशी प्रजातान्त्रीकरण : नेपालको बहुसांस्कृतिक समाज र राजनीतिक संस्थाहरू' विषयमा विद्यावारिधि गरेका लावतीसित आदिवासी जनजाति र अन्य सीमांकृत समुदायलाई राज्यको पुनःसंरचना गरिदिन समावेश गर्ने प्रक्रियाका बारेमा यात्राले लामो कुराकानी गरेको थियो। संसारका बहुसांस्कृतिक देशहरूका बारे पनि अनुसन्धान गरिरहनुभएका डा लावती केही समयअगाडि काठमाडौं आउनुभएको बखत

कुमार यात्रुले गरेको संवादका प्रमुख अंश

नेपाल अधिराज्य प्रश्नै-प्रश्नको संगालो बन्न पुगेको छ । हामी कहानेर चुक्यौ होला ? र, सामाजिक, राजनीतिक, आर्थिक प्रश्नको घेराउमा पयौ होला !

नेपाली समाजमा देखिएका असन्तुष्टि, गुनासो र विद्रोह स्वाभाविक हो । तर, समस्याको रूप ठम्याउने तरिका भने सतही छन् । हामी माओवादी विद्रोह, राजाको १८ असोजको कदम, आदिवासी जनजाति, दलित, महिला, मधेशीका तर्फबाट उठाइएका प्रश्नहरूलाई समस्याका रूपमा प्रस्तुत गर्ने गर्दछौ र समाधान खोज्ने प्रयत्न गर्दछौ । तर, मूल समस्या यिनीहरू होइनन् । मूल समस्या त अधिराज्यको राष्ट्रिय संरचनालाई सयौ वर्षदेखि निरन्तरता दिइएको छ । समस्याको प्रस्थान विन्दु त्यति हो !

अर्थात्, संवैधानिक संरचना देश सुहाउँदो भएन ?

निश्चित पनि नेपालको प्रजातान्त्रिक प्रणाली सामाजिक, सांस्कृतिक बनावट अनुकूल छैन । नेपालले अपनाएको वेस्ट मिनिस्टर प्रणाली बहुसांस्कृतिक देशहरूमा विफल देखिएको छ । लामो समयदेखि स्थापित बहुसांस्कृतिक प्रजातान्त्रिक देशहरूमा सम्मतीय प्रणाली अपनाएको पाइन्छ । नेपालमा लामो समयदेखि समुदायस्तरबाट द्वन्द्व सिर्जना हुनुको मूल कारण पनि यही हो ।

नेपाल अधिराज्यको संविधान-२०४७ त्यस्तो हो कि त्यसभन्दा अगाडिका संविधान पनि त्यस्ता हुन् ?

२०४६ सालको परिवर्तनले ल्याएको २०४७ को संविधानलाई नै हामीले हेर्ने हो । त्यसअगाडि प्रजातान्त्रिक प्रणाली थिएन । त्यसैले अबको बहसको विषय २०४७ कै संविधान हो र समस्या पनि त्यही हो ।

बौद्धिक समुदायले यो संविधानलाई त विश्वकै उत्कृष्ट भन्दैआएको होइन र ?

यो संविधानलाई उत्कृष्ट भन्नेहरूको जातीय पृष्ठभूमि हेर्नु भने त्यसपछाडिको मनोविज्ञान हामी ठम्याउन सक्छौ । उनीहरूले ठीकै पनि भनेका हुन् किनकि कथित मूलधारका विद्वान्हरूलाई विचारधारात्मक समस्या छैन भने उनीहरूको हैकमलाई निरन्तरता दिन योभन्दा उत्कृष्ट संविधान अर्को हुन सक्दैन । तर, बहुसंख्यक आदिवासी जनजाति, मधेशी, महिला, दलित एवं अल्पसंख्यक समुदायका बुद्धिजीवीहरूले यो संविधानलाई सुरुदेखि नै राम्रो भनेका छैनन् । बरु, सडकमा संविधानका केही अंश जलाएर असहमति प्रकट गरेका उदाहरण प्रशस्त छन् ।

मूलधारका राजनीतिक दलहरू यो संविधानको विपक्षमा देखिन्नन् । तपाईंले भन्नुभएको बहुसंख्यकको पुष्टि होला र ?

प्रजातन्त्रमा राजनीतिक दलको स्थान सधैं अग्रस्थानमा हुन्छ । तर, जनताको सबै आकांक्षा दलको माध्यमबाट मात्र प्रतिबिम्ब हुँदैन । विभिन्न दबाव समूहको हित अभिव्यक्ति पनि महत्त्वपूर्ण हुन्छ ।

सन्दर्भमा जुन मुद्दाहरूलाई राज्यले सम्बोधन गर्न सकेनन् भनिँदछ, ती मुद्दालाई जनतामा लैजाने दल असफल भए, अरू विफल भएका होइनन् र ?

वेस्ट मिन्स्टर प्रणालीको यो पनि एउटा दोष हो । पहिलो कुरा त जाति, भाषा, संस्कृतिको क्षेत्रमा चालिएको आन्दोलन प्रारम्भिक अवस्था रहेकाले निर्वाचन जिताउने वा हराउने चरणमा नपुगेको भन्नुपर्दछ । यो प्रणालीमा जवाफदेहिताको पनि अभाव हुन्छ । यदि यही प्रणालीमा पनि समानुपातिक पद्धतिको आधारमा निर्वाचन हुँदो हो त साना पार्टीहरूको सिट संख्या बढ्ने थियो भने ठूला दलहरूको सिट घट्ने थियो । ०५६ सालको निर्वाचनमा खसेको मतसंख्याको आधारमा पनि राष्ट्रिय जनमुक्ति पार्टीको दुई सिट हुन्थ्यो, सद्भावनाको त्यस भन्दा बढी नै हुने थियो ।

के त्यसो भए निर्वाचन पद्धति परिवर्तन गर्नुपर्थो होइन ?

हो ! मैले निर्वाचन पद्धतिलगायतका विषयमा आफ्नो अभिमत केही सार्वजनिक मञ्चहरूमा राख्दैआएको छु । नेपालको समग्र प्रजातान्त्रिक प्रणालीकै चर्चा गर्ने हो भने जातीय, भाषिक, धार्मिक समुदायवीच शक्ति साभेदारी गरेर प्रजातन्त्र सुदृढ गरिनुपर्दछ भन्ने मेरो मान्यता हो । बेल्जियम, स्विट्जरल्यान्ड, नेदरल्यान्ड, पपुवान्युगिनी, अस्ट्रिया, भारत, जर्मनीजस्ता बहुसांस्कृतिक मुलुकको अनुभवलाई अंगीकार गर्दै नेपालले पनि सम्मतीय राज्य संरचना अपनाउनुपर्दछ ।

शक्ति साभेदारी यस्तो संरचनाबाट कसरी गर्न सकिएला ?

नेपालको वर्तमान संवैधानिक व्यवस्थाले मूलतः तीन समस्या देखिए । निर्वाचित दलले मनपरी गर्ने, त्यसलाई नियन्त्रण गर्ने संयन्त्रको अभाव र सरकारमा अस्थिरताजस्ता समस्या बितेको १३ वर्षका अनुभवको विषय हो । त्यसैले राज्य शक्तिमा समुदायको साभेदारी, संसद्लाई सशक्त पार्ने र विभिन्न निकायको संस्थागत विकासका लागि सम्मतीय राज्य संरचना आवश्यक पर्ने प्रस्ताव गरिएको हो । यो संरचनामा जातीय संघीय प्रणाली, स्वायत्तता, आरक्षण, साधन र स्रोतको समानुपातिक भागवण्डा सम्मतीय प्रणालीका अंग हुन् ।

नेपालको भौगोलिक विशिष्टताको स्थितिमा कस्तो प्रकारको संघीयता उचित होला ?

प्रजातन्त्रमा आफ्नो शासन आफै गर्न पाउने नागरिकको अधिकार हो । यसैले संसारमा विभिन्न प्रकारका संघीय प्रणाली अपनाएको पाउँछौ । जस्तो- अस्ट्रेलियामा प्रशासनिक संघीयता अपनाइएको छ । तर, बहुजातीय देश स्विस्, बेल्जियममा (भूगोलले नेपालभन्दा सानो छ) जातीय स्वायत्तताको आधारमा स्वशासन गरेका छन् । नेपालमा जारी रहेको भाषिक, जातीय आन्दोलनलाई प्रशासनिक संघीयताले समेट्न सक्दैन । त्यसैले जातीय संघीयतालाई हामीले प्रमुखता दिनैपर्छ । भारतमा स्वतन्त्रतापछि प्रशासनिक संघीयता अपनाए पनि विभिन्न प्रान्तमा भाषिक दंगापछि जाति, भाषाका आधारमा संघीयता बनायो । नेपाली समाजको जस्तो संरचना छ, त्यसलाई सम्बोधन गर्ने प्रकारको संघीयता त हुनैपर्छ ।

मुलुकका कुनै समुदाय यस्ता छन् जो देशभर छरिएका छन् । उनीहरूको भूगोल एकीकृत छैन । यस्तो स्थितिलाई जातीय संघीयता भन्नु समस्या होइन र ?

हो ! दलित, क्षेत्री, वाहुन, देशभर छरिएर रहेका छन् । यी समुदायलाई गैरभौगोलिक संघीय प्रणालीले स्वायत्तता दिन सकिन्छ । त्यसमा मुलुकभरका जातीय सदस्यहरूले आफ्नो समुदायको राष्ट्रिय समिति गठन गर्छन् । त्यस समुदायको संस्कृति, भाषा र अन्य सामुदायिक आकांक्षाको रक्षा र प्रोत्साहन गर्ने निर्णय गर्न सक्छन् । राज्यले त्यस्ता प्रतिनिधिमूलक समितिहरूलाई स्वशासनको अधिकार र आवश्यक बजेट व्यवस्था गर्दछ ।

मुलुकको कुनै भू-भागमा कुनै जातिको बहुमत भए पनि अन्य क्षेत्रमा पनि ती जातिको उपस्थिति हुन्छ । जस्तो- लिम्बूवानमा लिम्बूहरूको बहुमत भए पनि काठमाडौंमा पनि उनीहरू छन् । ती जातिहरूलाई यो संरचनाले कसरी समेट्छ ?

हो ! यिनै कारणले गर्दा मैले तीन चरित्रको संघीयता र स्वशासन भनेको हुँ । कुनै संघभित्र स्वशासनको चर्चा गरेको हुँ । यदि कुनै क्षेत्रमा स्थानीय समुदाय एकीकृत छन् र स्वशासन चाहन्छन् भने उनीहरूलाई सो अधिकार दिइनुपर्दछ । कतिपय आदिवासी जनजाति र भाषिक समुदायहरू स-साना र अधिक सीमान्तकृत छन् । जस्तो- कुसुन्डा, राउटे, कोचे, मेचे आदिलाई उदाहरणका रूपमा लिन सकिन्छ । तिनीहरूका निमित्त राज्यले संरक्षण र उत्थानको विशेष कार्यक्रमको व्यवस्था गरिनुपर्दछ ।

संघीय संरचना भएका मुलुकमा पनि केन्द्रले हस्तक्षेप गरेको उदाहरण पाइन्छ । यसलाई कसरी नियन्त्रण गर्ने ? खासगरेर क्षेत्रीय वा प्रशासनिक संघीयतामा यस्तो सम्भावना रहन्छ । त्यसैले यो अतिक्रमणको स्थितिलाई नियन्त्रण गर्न केन्द्रीय संवैधानिक अदालत चाहिन्छ । त्यस अदालतमा जातीय समानुपातिक प्रतिनिधित्व हुनुपर्दछ । अहिले संविधानको व्याख्या गर्ने अधिकार भए पनि सर्वोच्च अदालतको आदिवासी जनजाति, महिला, मधेशी समुदायप्रति अदालतले गरेको व्याख्याबाट प्रतिगमन भएको छ ।

संघीय व्यवस्थाले देशमा विखण्डन निम्त्याउँछ भन्ने आरोप पनि छ नि !

संघीय व्यवस्थाले देश टुक्रिन्छ भन्ने उदाहरण दिइँदा युगोस्लाभिया, रसिया र चेकोस्लोभाकियाको उदाहरण गरिने गरिन्छ । यी तीनै मुलुकमा कम्युनिस्ट शासन प्रणाली थियो । विश्वका प्रजातान्त्रिक देश कुनै टुक्रिएको छैन । बरु, शक्तिको साभेदारी भएर राष्ट्रिय एकता बलियो भएको छ । यदि कम्युनिस्ट राज्यजस्तै अधिकारमा अति केन्द्रीकृत भयो भने असन्तुष्टि बढ्दै जाने हो । नेपालमा पनि एकात्मक प्रणाली अझै शक्तिशाली हुने हो भने समस्याको स्वरूप अरु भयावह हुने देखिन्छ ।

संघीय प्रणालीले शक्तिमात्र विकेन्द्रीकृत हुने होइन, कलह, भ्रगडा पनि केन्द्रबाट विकेन्द्रीकृत भएर स्थानीय तहसम्म पुग्ने त होइन ?

संसारका राज्य प्रणालीहरू अपनाउनेहरूले अध्ययनबाट के निष्कर्ष निकालेका छन् भने संघीय प्रणाली अपनाएका मुलुकमा स-साना विरोध, धर्ना स्थानीय तहमा वाक्लो देखियो । जुन प्रजातन्त्रका लागि सकारात्मक पक्ष हो । तर, एकात्मक प्रणाली अपनाएको मुलुकमा ठूलो विद्रोह, द्वन्द्व र हिंसात्मक घटना देखिएका छन् । नेपालमा माओवादी विद्रोहले फुल्ने-फल्ने मौका पाउनुमा एकात्मक प्रणालीले नै मैदान दिएको हो । यही संरचना कायम राख्ने हो भने भोलि जातीय विद्रोहले त्योभन्दा ठूलो आकार लिन सक्दैन भनेर भन्न सकिन्छ ।

संवैधानिक राजतन्त्र भएको मुलुकमा संघीय व्यवस्था अनुकूल नहुने तर्कलाई के भन्नुहुन्छ ?

संवैधानिक राजतन्त्र अपनाएको क्यानाडा र अस्ट्रेलियामा संघीय राज्यको माध्यमबाट प्रजातन्त्र सुदृढ गरेको छ भने नेपालमा प्रतिकूल हुने तर्क नै मिल्दैन । प्रजातन्त्रमा विश्वास गर्ने व्यक्तिले नागरिकलाई अधिकारसम्पन्न बनाउने सवालमा यस्तो तर्क गर्दैनन् ।

सवाल अधिक, स्रोत र साधनको संकलन र परिचालन पनि हो । यस्तो अवस्थामा कसरी स्रोत व्यवस्थापन हुन्छ ?

विभिन्न देशमा जनसंख्या, भौगोलिक मात्र हैन, क्षेत्रका आधारमा निश्चित स्रोत र साधन केन्द्रले विनियोजन गर्न संवैधानिक व्यवस्था गरेको हुन्छ । यहाँ पनि त्यसलाई अनुकरण गर्न सकिन्छ । कर्णालीकै उपमा दिने हो भने पनि अहिले राज्यको विभिन्न च्यानलबाट जाने स्रोत एकीकृत गर्ने हो भने त्यहाँको स्थानीय सरकारले उचित ढंगले परिचालन गर्न सक्दछ । फेरि त्यहाँको स्थानीय स्रोत र साधन परिचालन गर्ने अधिकार स्थानीयवासीले नै पाएको खण्डमा नयाँ स्रोतको पनि पहिचान हुनसक्छ ।

तपाईंको यो सोच कहिलेसम्म कार्यान्वयन होला भन्ने लाग्दछ ?

कुनै पनि नयाँ नीति ठूला धक्का नलागी लागू नहुने प्रवृत्ति विश्वकै राजनीतिक इतिहासमा पाइन्छ । अहिले माओवादी विद्रोहले एउटा वातावरण सिर्जना गरेको छ । त्यसैले आशा गरौं- नेपालमा दलहरू, नागरिक समाज र आन्दोलनकर्मी चाँडै यही मिलनबिन्दुमा आउनेछन् । ●

