

Foundations for the future Strategies of the Constitution Making Process from Dalit Rights Perspective

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Background:

That the Constituent Assembly (CA) election has been held in free and fair manner as anticipated by the people's movement. The reports of national and international electoral observers have also mentioned that election was held in a faire manner. Though the framework of the CA has not evolved yet, about 90% of its groundwork has been completed. In this context, we all are aware that CA is just the first rung of the ladder. After all, this will be the one and only to facilitate the legitimacy for the constitution building. The journey of making new constitution, however, will be awfully long and tedious. The formation of CA is just the stepping stone for the long journey set off towards constitution making. Thus, it's the need of the hour now that, along with the massive participation, the people's representatives devoted and dedicated themselves in building the constitution with their heart and soul.

We are all cognizant of the fact that no Nepalese have had their direct participation in making the constitution till date. Nor did they have the constitution above them legitimized by the people themselves. Instead, all those constitutions were framed with the hegemonic participation and representation of the elites. The feudalistic values to underestimate the interest of the poor and the common people in political decision making of the state caused the people's participation in building the constitution to be almost nil in the past.

The main reason behind all this is their weakness to limit the wide horizon of the real constitutionalism. Therefore, it will be severely injustice to the true meaning of the Constitution if we look at it as a mere political instrument. In real sense, the constitution is the people's manifesto meaning to serve the purpose of mouthpiece for the people to proclaim the desires and will of their rights and liberties. Thus, in this regard, since the constitution serves as the mouth piece of the people, it has to be made the democratic and transparent to the fullest extent by the political parties, state mechanism, government agencies, non governmental agencies and organizations as well as the Civil Society contemplating this holistic task as a serious matter. Likewise, it's high time for them to be well prepared to embark upon the long journey of constitution making with their concerted effort.

There goes a saying that the thirst stricken must go to the pond and the pond won't come to him/her and so is the situation of the Dalit community. They are compelled to lead their lives as the second class citizens amidst the unscientific, unethical and the social practice of illogical "untouchability" including the other discriminatory practices on

the basis of their birth. As a result, at this golden hour of state restructuring movement, there is no any alternative except for them to totally sweep away the remains of the feudalism existed for ages. We all are aware that the discrimination on the basis of castes, hasn't violated only the social and personal rights of the Dalits but this has simultaneously created a big barricade for them to exercise their civil and political rights as well. Apparently, owing to this, the Dalit community never got the opportunity to exercise/enjoy their own rights in democratic way. They continued to mortgage their rights as per the direction of the so-called high caste in the capacity of tiller, (Khali), Granary house care taker (Balighare) and bonded servants. This ultimately resulted in their involvement in the decade long people's war directly or obliquely. Summing up all, this is the most fertile occasion for institutionalizing their effort and the constitution making process to establish the new democratic norms and values in the form of decorum and culture with their heart and soul.

Strategies prior to the Constituent Assembly

"Value of time" is the key factor that the society, community and class agitating for any issues or grievances have to understand in the present context. There is no meaning of movement for the achievement of the one's objective without conceiving the meaning of time and its relevance. Dalit movement, therefore, has to mould itself accordingly with the proper diagnosis of the sentiment of time and its direction. It is the time, as said earlier, to make the journey of peace building through the state restructuring. In the present context, therefore, while the new government including the political parties is all set to focus themselves on the preparation of the first ever CA meeting, the Dalit community needs to move forward strategically for mainstream lining their rights and liberties.

It is indisputably inevitable to create public pressure and launch advocacy fundamentally on the following issues prior to the Constituent Assembly:

- It is observed that the pressure oriented programs have to be launched actively in both local and center level for the nomination of the Dalit academics working in the filed of Dalits' rights in an appropriate number to be appointed amongst the 26 CA members as furnished in the Nepal's Interim Constitution. Likewise, the meetings with the political parties have to be sped up in order to achieve this objective.
- Its been a necessity that, with the active charge, the monarchy, which has enliven the feudalistic structure so far, be demolished through the first meeting without any dilly dallying.
- Last but not the least, its high time that the strategy be formulated in collaboration with the non governmental organizations working in the field of Dalits, politicians, social workers, representatives of the civil society including the elected Dalits CA members.

What are we to be clear in?

In the first place, we need to move forward actively and in strategic manner from the center to the region and to the local level with regard to the following:

- Restructuring can be observed with two different folds:
 - a) Perspective of physical infrastructure based restructuring
 - b) Perspective of culture based restructuring

Physical infrastructure based restructuring deals with the change in state system and state mechanism such as putting an end to the remains of the monarchy, inception of the federal state system, power division including the expansion of accessibility of the people to the state resources and state mechanism upon the necessary change in it. However, it is a well known fact such a change won't bring about the change in the status of people in general. Broadly speaking, the federal state system alone won't fulfill the expected desires and wishes of the people because this is just the system or the device. Therefore, the need of basic change in the cultural restructuring is the paramount concern rather than the social, economical change for the protection of the rights and liberties of the people and absolute democracy. The need of the hour is the unwavering end of all forms of discrimination and exploitation.

Also, it is equally necessary to develop the institutionalization of the democratic norms and values that declares the people as the owners. Similarly, there is a need to aggressively launch the people's advocacy and lobbying for the cultural restructuring in order for the protection of the rights of Dalits. Since there is need of drastic change in the opinion, perspectives and behavior, the cultures, on the whole, have to be revitalized in the form of true cultures. Above all, revolutionizing practically in the human rights perspectives and thoughts, it must be necessitated to evolve the mechanism that obliges the citizens, class and communities to be accountable. Not to mention, there is a need of drastic change in the day to day communications and behavior on the whole.

- Federal State System:

As far as possible, it is needed to be crystal clear towards the mapping of the federal state system. At least, the Dalit community has to be clearer than ever to this with the perspectives of their rights. Indisputably, the issues of the Dalits are different from those of the indigenous and ethnic groups. So different are the other various matters as well. Therefore, the Dalit community needs to have the adequate knowledge about the components in the federal state system for their most sought after rights and liberties due to the reason of the problems they have been facing, their lifestyle and their political and social status. Dalits are a politically minority group. Thus, without any denial, the federal state mechanism be abundantly enhanced with regard to the guarantee of integrated from of the federal state mechanism, special provision to Dalits, acceleration in their well-located access to the state resources, their substantial and meaningful representation in each and every political body or the power division.

Strategies after the CA Meeting

There is a need of a potent strategic plan upon the discussion as to how to move ahead with the constitution making process to the fullest extent for the rights of Dalits after the first CA meeting.

- Participation based process: The democratic process of constitution building after the Constituent assembly meeting is a significant element. Equally necessary are the maximum participation of the people that has to be ensured with due guarantee and legitimatizing of the issues related to the people's rights and liberties through public debate. Since, the constitution is fundamental law of the state, it must be framed with the extensive participation of the people. Gone are the days, when the people were just informed about the formation of the constitution. In this regard, the policies have to be made with their direct involvement. The thorough homework, therefore, is needed so as to make the Dalits' participation meaningful and serious in the much needed and awaited constitution making.
- The meaningful representation in the would-be formed committees is being another important issue. It is highly necessary and must that all have to be concentrated on the Dalits representation in the Committees and sub-committees to be formed under CA. It will, no doubt, turn out to be futile if the representation is sought in the committees seeking only the rights of the Dalits and the trend to keep mum or inactive with regard to the participation in other committees has to be given up without any second thought. Essentially, on the one hand, Dalits being the unreachable portion of the state population, there is a need to acquire the representation and share in all the issues of the state and its agenda while on the other hand, the necessary strategy has to be prepared with regard to the mechanism for the elimination of untouchability, social justice and special rights by forming the special committees. Likewise, the other indispensables are the mentioning of the end of the discrimination including untouchability in the preamble of the constitution, the equal wages for the equal work provision in terms of all, mentioning of the non-deprivation of the occupation or employment and the veto of discrimination in private sectors etc.
- The matters to be incorporated in the constitution with regard to the protection and promotion of the Dalits rights: This is the appropriate time for the serious discussion and further brainstorming that is required for the acquisition of the solution and the legitimacy of the issues and agendas we have been raising for so long. The accurate mapping, therefore, should be presented before the CA members and the members of various committees upon having interactions among ourselves followed by the discussion among the all the political parties and all the concerned. Mainly, following are the issues that the Dalits have been bringing up:

1. The substantial and clearly constitutional proclamation for the end of untouchability.
2. Genuine reservation in public and private sectors.
3. Guarantee for equitable and proportional representation in each and every political and administrative bodies of the government/state.
4. Clear definition of the Dalits.
5. Special provision for the end of exploitation and injustice inflicted on the Dalits on the basis of their birth, caste or on the basis of social occupation
6. Provision of equitable distribution mechanism of the natural resources including land.
7. Uncomplicated issuance of the citizenship certificate
8. The provision of strong monitoring mechanism for the effective implementation of respect for the rights of dalit and
9. Monitoring and implementation body of reservation.

- Dalits in the Federal State system:

In recent days, the burning debate has been on the federal state system. As said earlier, the first dimension of state restructuring may drift on the federal state system. However, there has to be serious debate on the foundation and appearance of this system. We got to see whether or not the determination to give its skeleton form turns out to be realistic if formed only on the basis of caste, ethnicity, language, linguist and geography. In essence, the matters such as the development, caste and ethnicity, geography, the status of natural resources, educational status including poverty must be looked at seriously while determining appearance of its structure. Needless to say that many minorities will emerge in the days to come if the FSS is not structured keeping in mind the political minorities.

- The role of civil society and the non-governmental organizations:

In the political history of Nepal, the civil society has been indisputably playing the significant role in the social and political issues of the state after the democratic political system restored in 1990. Their immensely relentless roles played during the People's Moment II have proved this. The continuation of their progressive role, therefore, cannot be alienated in the state restructuring as well.

All must focus on to commence this holistic task from their own sides as to how the non governmental organization and the civil society dedicated to the rights of the Dalits can fetch the guarantee the rights of Dalits in the new constitution and to necessitate for the meaningful participation of the Dalits in the new constitution.

- The revelation of the issues:

It is not enough just to have the revelation of the issues but they are to be firmly established. A thorough homework is needed to place the issues and agendas in an appropriate way. In real sense, the sentiments and speeches alone won't fetch transform the issues in scientific way. Instead the necessary studies and research will dig the foundation for achieving the milestone.

- Drawing attention of the concerned authorities:
With regard to incorporating the Dalits rights in the new constitution, fostering adequate knowledge among the CA members and the members of the other committees is not enough but the public pressure should be consistently created.
- Providing materials and publications to the CA members especially dalit members about dalit's agendas and issues.
- Make available the information about the rights of Dalits to the Dalits rights workers and communities by stressing upon the production and dissemination of the publication, interaction and structures materials with regard to the public awareness development.
- Awareness on the matters related to the Constitution making and process:
Summing up all, the Dalit community needs be aware of the complete process of constitution making. The objective whatever cannot be achieved just by facilitating knowledge of the Dalits rights. Nonetheless, what all is needed at this hour of the time is to avail them with the knowledge about the constitution making process and to appropriately initiate for their participation in the process.